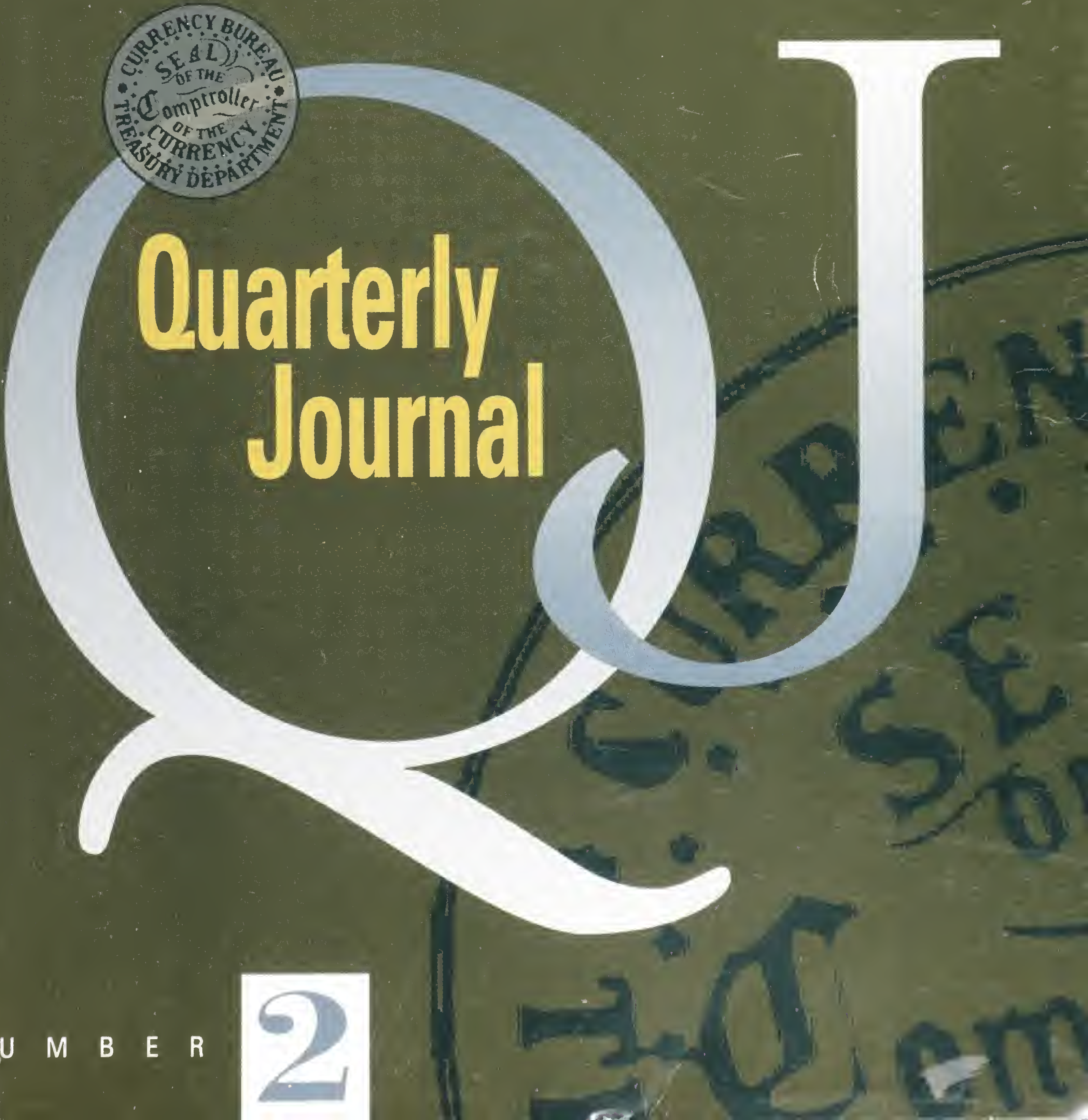
Comptroller of the Currency
Administrator of National Banks

VOLUME ELEVEN



# Quarterly Journal

UMBER 2

# Office of the Comptroller of the Currency
# June 1992

| | |
|---|---|
| Comptroller | Stephen R. Steinbrink (Acting) |

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| | |
|---|---|
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## Background

The Office of the Comptroller of the Currency (OCC) was established in 1863 as a bureau of the Department of the Treasury. The OCC is headed by the Comptroller, who is appointed by the President, with the advice and consent of the Senate, for a 5-year term.

The OCC regulates national banks by its power to:

- Examine the banks;
- Approve or deny applications for new charters, branches, capital or other changes in corporate or banking structure;
- Take supervisory actions against banks which do not conform to laws and regulations or which otherwise engage in unsound banking practices, including removal of officers, negotiation of agreements to change existing banking practices, and issuance of cease and desist orders; and
- Issue rules and regulations concerning banking practices and governing bank lending and investment practices and corporate structure.

The OCC divides the United States into six geographical districts, with each headed by a Deputy Comptroller.

The OCC is funded through assessments on the assets of national banks.

## The Comptroller

Stephen R. Steinbrink has been Acting Comptroller of the Currency since March 1, 1992.

By statute, the Comptroller serves a concurrent term as a Director of the Federal Deposit Insurance Corporation and the Neighborhood Reinvestment Corporation. The Comptroller also serves as a member of the Federal Financial Institutions Examination Council.

Mr. Steinbrink joined the OCC in 1967 in Kansas City, Missouri, and was commissioned as a National Bank Examiner in 1970. In 1983, he was appointed Director for Bank Supervision/Regional Banks for the Southwestern District Office. Prior to his appointment as Acting Comptroller of the Currency, he also served as Deputy Comptroller for Multinational Banking and Senior Deputy Comptroller for Bank Supervision Operations.

Mr. Steinbrink is a native of Falls City, Nebraska, and is a 1967 graduate of the University of Nebraska.

The *Quarterly Journal* is the journal of record for the most significant actions and policies of the Office of the Comptroller of the Currency. It is published four times a year in March, June, September and December. The *Quarterly Journal* includes policy statements, decisions on banking structure, selected speeches and testimony, material released in the interpretive letter series, statistical data, and other information of interest to the administration of national banks. Suggestions, comments, or questions concerning content should be addressed to the Senior Writer/Editor, Communications Division, Comptroller of the Currency, Washington, DC 20219. Subscriptions are available for $60 a year by writing to Publications—QJ, Comptroller of the Currency, Washington, DC 20219.

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# Quarterly Journal

# Office of the
# Comptroller of the Currency

Stephen R. Steinbrink

Acting Comptroller of the Currency

The Administrator of National Banks

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# Operations of National Banks

National bank profits increased in the first quarter of 1992, but problem loans continued to burden overall performance, according to the preliminary operating results of 3,735 reporting national banks. The results showed continued improvement in profitability and capital levels for most national banks. That was true for banks in all size categories, although the largest banks' performance continues to be below that of the rest of the industry.

National bank performance continued to be hurt by problem loans. The percentage of non-current loans in bank portfolios remained virtually flat at historically high levels. In addition, bank performance in the West deteriorated. Compared with the first quarter of 1991, profitability at national banks in that region was down, and non-current loan ratios increased to a level above the industry average.

## National Bank Profits Improve

National banks reported aggregate profits of $3.95 billion for the first quarter of 1992, $1.98 billion more than fourth quarter 1991 earnings. First quarter 1992 profits were almost $1 billion higher than earnings for the same period in 1991, and the largest quarterly earnings since the second quarter of 1989.

The increase in earnings translates into improved profitability for national banks. The annualized return on average equity (ROE) for the first quarter climbed to 12.28 percent, compared with 9.79 percent for the same period in 1991 and an average annual rate of 8.90 percent for the past ten years. Similarly, the annualized return on average assets (ROA) rose to .80 percent from the first quarter from .60 percent for the same period in 1991.

The total number of national banks losing money also declined. Unprofitable national banks totaled 296 for the first quarter 1992, compared with 505 for the first three months of 1991 and 496 for all of 1991. This is the smallest number of national banks reporting a first quarter loss in the past six years.

Several factors contributed to the improvement in aggregate national banking profits. Net interest income for the first quarter increased to $18.94 billion, $0.69 billion more than the fourth quarter of 1991. This is the largest first quarter figure in five years.

Gains on the sale of investment securities also continued to contribute to first quarter bank earnings. For the first three months of the year, gains on the sale of investment securities totaled $0.69 billion for national banks — somewhat lower than the $0.89 billion reported in the fourth quarter of 1991 but significantly more than the $0.27 billion reported for the first three months of 1991.

## Capital Levels Continue to Increase

Continuing a two-year trend, national banks increased their equity capital in the first quarter. National banks added $3.80 billion to their equity capital by the end of March, for a total of $130.67 billion. With total assets at national banks virtually unchanged, the ratio of equity to assets increased to 6.60 percent, the highest ratio for any quarter in more than 10 years.

Regulatory capital ratios also improved. The aggregate leverage ratio of national banks rose from 5.91 percent in the first quarter of 1991 to 6.26 percent for the same period in 1992. The aggregate risk-based capital ratio for national banks also increased from 9.38 percent to 10.41 percent over the same 12-month period.

## Portfolio Changes Continue: Loans Down, Securities Up

Total loan volume at national banks fell to $1,213.53 billion in the first quarter, a drop of 1.14 percent. It was the sixth consecutive quarterly decline in the volume of outstanding loans. Commercial and industrial loans fell by $4.53 billion, and consumer loans fell by $7.44 billion. Real estate loans, the only major loan category that showed an increase from year-end 1991 levels, rose by only $.13 billion to reach a total of $502.61 billion.

National bank holdings of investment securities have risen every year since 1984. This trend continued in the first quarter, with banks' investment securities increasing by $12.49 billion to reach $373 billion.

## Credit Quality Problems Persist

While credit quality has improved slightly, substantial amounts of problem loans continue to burden national banks. After reaching a peak of $55.10 billion in the second quarter of 1991, non-current loans fell by $4.76

billion during the last half of the year. By the end of the first quarter 1992, non-current loans had fallen by $.81 billion to $49.53 billion.

At the same time, however, because the total volume of loans held by national banks also declined, the ratio of non-current loans to total loans remained virtually flat. The ratio dropped from 4.10 percent at year-end 1991 to 4.08 percent at the end of March 1992.

Real estate loans continue to be the major contributor to credit quality problems at national banks. Real estate loans account for 41.42 percent of national bank loans, but they make up 54.61 percent of all non-current loans. Real estate credit quality has improved somewhat, with the ratio of non-current to total real estate loans falling from 5.58 percent to 5.38 percent over the past 12 months. However, the OCC does not expect the weaknesses in banks' real estate loan portfolios to improve significantly until the demand for commercial real estate catches up with supply, a process that may take many years in some parts of the country.

## Large Bank Performance Improves But Lags Other Size Groups

All size categories of national banks reported improvements in profitability, net interest income, and capital levels in the first quarter. In addition, all size categories showed an increase in loan loss reserve coverage and a decline in the percentage of non-current loans. However, the largest national banks (with more than $10 billion in assets) continued to perform below industry averages.

For example, the aggregate equity-to-asset ratio for the largest banks increased 14 basis points to 5.78 percent, compared with the industry aggregate ratio of 6.60 percent. The largest banks' aggregate leverage ratio rose 13 basis points to 5.36 percent, compared with an industry ratio of 6.26 percent. Finally, the largest banks' aggregate risk-based capital ratio increased 27 basis points to 9.15 percent, compared with 10.41 percent for all national banks.

As a group, the largest national banks remain less profitable and have a higher rate of losses than smaller banks. ROE for the largest banks increased from 6.45 percent for the first quarter of 1991 to 9.36 percent for the most recent quarter, well below the aggregate ROE of 12.28 percent for all national banks. For the first quarter of this year, losses for the largest banks were $2.37 billion, up from $2.10 billion in the first quarter of 1991. This is an annualized loss rate of 1.53 percent of loans, compared with an aggregate annualized loss rate of 1.35 percent for all national banks.

Only the largest banks and those with assets between $300 million and $1 billion showed an increase in their loan loss provisions over the past 12 months. Banks in the largest size category made loan loss provisions of $2.86 billion in the first quarter of 1992, an increase of 27.68 percent from the same period in 1991.

## Bank Performance Improves in Northeast, Deteriorates in West

National banks in every geographic region except the West improved their performance in the first quarter of 1991. In all other regions, provisions to loan loss reserves, non-current loan ratios, and the number of banks with losses all declined over the past 12 months.

The greatest improvement occurred in the Northeast. National banks in that region reported an ROE of 9.30 percent for the first quarter this year, compared with 3.10 percent for the first quarter of 1991. The Northeast experienced similar improvement in credit quality, with the ratio of non-current loans to total loans falling from 6.92 percent to 5.92 percent. Nonetheless, this ratio remains the highest of any geographic region in the current quarter.

National bank performance in the West declined in the first quarter. The aggregate ROE for the region fell to 9.30 percent, compared with 16.63 percent for the first quarter of 1991. Credit quality also deteriorated. Non-current loans climbed from 3.25 percent of total loans for the first three months of 1991, to 4.51 percent for the same period in 1992. The decline in credit quality was accompanied by an increase in provisions to loan loss reserves, from $.68 billion in the first quarter of 1991 to $1.36 billion for the same period this year.

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Mark Winer
Banking Research and Statistics

## *Aggregate Performance Data for National Banks*
## (Data Through First Quarter of Each Year)

| | *1987* | *1988* | *1989* | *1990* | *1991* | *1992* |
|---|---|---|---|---|---|---|
| Industry Structure | | | | | | |
| Number of Banks | 4,788 | 4,528 | 4,286 | 4,107 | 3,950 | 3,735 |
| Number of Banks with Losses | 875 | 700 | 508 | 530 | 505 | 296 |
| Number of Failed Banks | 24 | 12 | 33 | 22 | 13 | 9 |
| Income Statement ($ Billions) | | | | | | |
| Year-To-Date | | | | | | |
| Net Income | 2.84 | 2.20 | 4.32 | 3.31 | 2.97 | 3.95 |
| Net Interest Income | 14.20 | 15.06 | 16.66 | 16.82 | 17.24 | 18.94 |
| Noninterest Income | 5.88 | 6.85 | 7.37 | 8.58 | 8.85 | 9.81 |
| Noninterest Expense | 14.00 | 15.18 | 15.73 | 16.91 | 17.85 | 19.16 |
| Loan Loss Provision | 2.71 | 3.40 | 2.42 | 4.08 | 4.58 | 4.75 |
| Securities Gains, Net | 0.45 | 0.21 | 0.02 | 0.07 | 0.27 | 0.69 |
| Extraordinary Income, Net | 0.07 | 0.06 | 0.16 | 0.11 | 0.34 | 0.10 |
| Net Loan Loss | 2.22 | 2.78 | 2.56 | 4.36 | 4.15 | 4.10 |
| First Quarter | | | | | | |
| Net Income | 2.84 | 2.20 | 4.32 | 3.31 | 2.97 | 3.95 |
| Net Interest Income | 14.20 | 15.06 | 16.66 | 16.82 | 17.24 | 18.94 |
| Noninterest Income | 5.88 | 6.85 | 7.37 | 8.58 | 8.85 | 9.81 |
| Noninterest Expense | 14.00 | 15.18 | 15.73 | 16.91 | 17.85 | 19.16 |
| Loan Loss Provision | 2.71 | 3.40 | 2.42 | 4.08 | 4.58 | 4.75 |
| Securities Gains, Net | 0.45 | 0.21 | 0.02 | 0.07 | 0.27 | 0.69 |
| Extraordinary Income, Net | 0.07 | 0.06 | 0.16 | 0.11 | 0.34 | 0.10 |
| Net Loan Loss | 2.22 | 2.78 | 2.56 | 4.36 | 4.15 | 4.10 |
| Performance Ratios (%) | | | | | | |
| Year-To-Date | | | | | | |
| Return on Equity | 11.00 | 8.80 | 15.71 | 11.43 | 9.79 | 12.28 |
| Return on Assets | 0.66 | 0.50 | 0.93 | 0.67 | 0.60 | 0.80 |
| Net Interest Margin | 3.31 | 3.40 | 3.61 | 3.43 | 3.50 | 3.83 |
| Loss Provision to Loans | 1.03 | 1.20 | 0.81 | 1.29 | 1.44 | 1.56 |
| Net Loan Loss to Loans | 0.84 | 0.99 | 0.86 | 1.38 | 1.31 | 1.35 |
| Noncurrent Loans to Loans | 4.06 | 3.78 | 3.13 | 3.33 | 4.34 | 4.08 |
| Loss Reserve to Loans | 1.76 | 2.92 | 2.43 | 2.52 | 2.64 | 2.84 |
| Loss Reserve to Noncurrent Loans | 43.29 | 77.31 | 77.76 | 75.57 | 60.87 | 69.49 |
| Loans to Assets | 61.95 | 63.67 | 64.30 | 64.32 | 64.80 | 61.29 |
| Loans to Deposits | 81.53 | 84.46 | 84.09 | 84.75 | 82.90 | 77.77 |
| Equity Capital to Assets | 6.16 | 5.66 | 6.01 | 6.00 | 6.27 | 6.60 |
| Estimated Leverage Ratio | N/A | N/A | N/A | N/A | 5.91 | 6.26 |
| Estimated Risk-Based Capital Ratio | N/A | N/A | N/A | N/A | 9.38 | 10.41 |

Banking Research & Statistics

## *Aggregate Condition Data for National Banks*
## (Data Through First Quarter of Each Year)

| | *1987* | *1988* | *1989* | *1990* | *1991* | *1992* |
|---|---|---|---|---|---|---|
| Balance Sheet ($ Billions) | | | | | | |
| Assets | 1,707.57 | 1,772.33 | 1,854.19 | 1,972.70 | 1,958.17 | 1,980.12 |
| Loans | 1,057.84 | 1,128.51 | 1,192.26 | 1,268.77 | 1,268.85 | 1,213.53 |
| Real Estate (RE) | 318.69 | 368.22 | 422.51 | 475.14 | 503.69 | 502.61 |
| Commercial & Industrial (C&I) | 361.56 | 374.36 | 377.16 | 391.53 | 379.56 | 343.41 |
| Consumer (Cnsmr) | 204.07 | 215.33 | 230.20 | 243.36 | 235.95 | 226.85 |
| Noncurrent Loans | 42.97 | 42.65 | 37.32 | 42.30 | 55.10 | 49.53 |
| Noncurrent RE Loans | 9.42 | 12.19 | 11.73 | 17.18 | 28.12 | 27.05 |
| Noncurrent C&I Loans | 19.94 | 17.12 | 13.60 | 14.08 | 18.57 | 15.33 |
| Noncurrent Cnsmr Loans | 2.62 | 2.67 | 2.66 | 3.05 | 3.37 | 3.39 |
| Other Real Estate Owned | 5.31 | 6.85 | 7.17 | 9.14 | 16.44 | 18.43 |
| Investment Securities | 254.82 | 272.04 | 279.81 | 303.78 | 323.62 | 372.51 |
| Total Liabilities | 1,602.25 | 1,671.89 | 1,742.75 | 1,854.32 | 1,835.44 | 1,849.45 |
| Total Deposits | 1,297.56 | 1,336.16 | 1,417.89 | 1,497.06 | 1,530.53 | 1,560.33 |
| Domestic Deposits | 1,088.59 | 1,132.04 | 1,219.58 | 1,291.05 | 1,332.31 | 1,364.79 |
| Loan Loss Reserve | 18.60 | 32.97 | 29.02 | 31.97 | 33.54 | 34.42 |
| Equity Capital | 105.25 | 100.37 | 111.36 | 118.31 | 122.73 | 130.67 |
| Total Capital | N/A | N/A | N/A | 142.71 | 152.10 | 158.66 |
| Balance Sheet Changes ($ Billions) | | | | | | |
| Year-To-Date Changes | | | | | | |
| Assets | -32.91 | 2.42 | 8.02 | -3.37 | -25.73 | -0.81 |
| Loans | -15.19 | 15.84 | 7.66 | -2.27 | -6.66 | -13.98 |
| Noncurrent Loans | 12.15 | 0.60 | 1.27 | 1.32 | 3.31 | -0.80 |
| Other Real Estate Owned | 0.33 | 0.66 | 0.43 | -0.07 | 1.99 | 0.77 |
| Investment Securities | 1.43 | -0.37 | 4.67 | 9.45 | 10.81 | 12.49 |
| Total Liabilities | -35.93 | 1.83 | 4.81 | -7.99 | -28.54 | -4.61 |
| Deposits | -22.97 | -12.32 | 2.80 | -5.69 | -25.07 | -9.56 |
| Loan Loss Reserve | 0.51 | 0.77 | -0.80 | -0.39 | -0.59 | 0.68 |
| Equity Capital | 3.02 | 0.59 | 3.21 | 4.63 | 2.81 | 3.80 |
| Total Capital | N/A | N/A | N/A | N/A | 3.03 | 3.83 |
| First Quarter Changes | | | | | | |
| Assets | -32.91 | 2.42 | 8.02 | -3.37 | -25.73 | -0.81 |
| Loans | -15.19 | 15.84 | 7.66 | -2.27 | -6.66 | -13.98 |
| Noncurrent Loans | 12.15 | 0.60 | 1.27 | 1.32 | 3.31 | -0.80 |
| Other Real Estate Owned | 0.33 | 0.66 | 0.43 | -0.07 | 1.99 | 0.77 |
| Investment Securities | 1.43 | -0.37 | 4.67 | 9.45 | 10.81 | 12.49 |
| Total Liabilities | -35.93 | 1.83 | 4.81 | -7.99 | -28.54 | -4.61 |
| Deposits | -22.97 | -12.32 | 2.80 | -5.69 | -25.07 | -9.56 |
| Loan Loss Reserve | 0.51 | 0.77 | -0.80 | -0.39 | -0.59 | 0.68 |
| Equity Capital | 3.02 | 0.59 | 3.21 | 4.63 | 2.81 | 3.80 |
| Total Capital | N/A | N/A | N/A | N/A | 3.03 | 3.83 |

Banking Research & Statistics

## *Aggregate Performance Data for National Banks By Size*
## *(Data Through First Quarter of Each Year)*

| | *Under $300M* | | *$300M-$1B* | | *$1B-$10B* | | *Over $10B* | | *Total* | |
|---|---|---|---|---|---|---|---|---|---|---|
| | *1991* | *1992* | *1991* | *1992* | *1991* | *1992* | *1991* | *1992* | *1991* | *1992* |
| Industry Structure | | | | | | | | | | |
| Number of Banks | 3,439 | 3,211 | 308 | 320 | 169 | 168 | 34 | 36 | 3,950 | 3,735 |
| Number of Banks with Losses | 450 | 260 | 26 | 20 | 21 | 11 | 8 | 5 | 505 | 296 |
| Number of Failed Banks | 10 | 9 | 0 | 0 | 2 | 0 | 1 | 0 | 13 | 9 |
| Income Statement ($ Billions) | | | | | | | | | | |
| Year-To-Date | | | | | | | | | | |
| Net Income | 0.51 | 0.66 | 0.34 | 0.42 | 1.29 | 1.59 | 0.82 | 1.29 | 2.97 | 3.95 |
| Net Interest Income | 2.52 | 2.60 | 1.60 | 1.76 | 5.88 | 6.31 | 7.25 | 8.28 | 17.24 | 18.94 |
| Noninterest Income | 0.64 | 0.70 | 0.53 | 0.59 | 3.15 | 3.46 | 4.53 | 5.06 | 8.85 | 9.81 |
| Noninterest Expense | 2.22 | 2.24 | 1.43 | 1.52 | 5.91 | 6.30 | 8.29 | 9.10 | 17.85 | 19.16 |
| Loan Loss Provision | 0.25 | 0.21 | 0.24 | 0.27 | 1.85 | 1.41 | 2.24 | 2.86 | 4.58 | 4.75 |
| Securities Gains, Net | 0.03 | 0.05 | 0.01 | 0.02 | 0.10 | 0.19 | 0.13 | 0.43 | 0.27 | 0.69 |
| Extraordinary Income, Net | 0.01 | 0.01 | 0.00 | 0.00 | 0.33 | 0.04 | 0.00 | 0.04 | 0.34 | 0.10 |
| Net Loan Loss | 0.21 | 0.16 | 0.25 | 0.22 | 1.60 | 1.35 | 2.10 | 2.37 | 4.15 | 4.10 |
| First Quarter | | | | | | | | | | |
| Net Income | 0.51 | 0.66 | 0.34 | 0.42 | 1.29 | 1.59 | 0.82 | 1.29 | 2.97 | 3.95 |
| Net Interest Income | 2.52 | 2.60 | 1.60 | 1.76 | 5.88 | 6.31 | 7.25 | 8.28 | 17.24 | 18.94 |
| Noninterest Income | 0.64 | 0.70 | 0.53 | 0.59 | 3.15 | 3.46 | 4.53 | 5.06 | 8.85 | 9.81 |
| Noninterest Expense | 2.22 | 2.24 | 1.43 | 1.52 | 5.91 | 6.30 | 8.29 | 9.10 | 17.85 | 19.16 |
| Loan Loss Provision | 0.25 | 0.21 | 0.24 | 0.27 | 1.85 | 1.41 | 2.24 | 2.86 | 4.58 | 4.75 |
| Securities Gains, Net | 0.03 | 0.05 | 0.01 | 0.02 | 0.10 | 0.19 | 0.13 | 0.43 | 0.27 | 0.69 |
| Extraordinary Income, Net | 0.01 | 0.01 | 0.00 | 0.00 | 0.33 | 0.04 | 0.00 | 0.04 | 0.34 | 0.10 |
| Net Loan Loss | 0.21 | 0.16 | 0.25 | 0.22 | 1.60 | 1.35 | 2.10 | 2.37 | 4.15 | 4.10 |
| Performance Ratios (%) | | | | | | | | | | |
| Year-To-Date | | | | | | | | | | |
| Return on Equity | 9.76 | 12.57 | 12.13 | 13.73 | 13.56 | 15.66 | 6.45 | 9.36 | 9.79 | 12.28 |
| Return on Assets | 0.80 | 1.06 | 0.86 | 1.01 | 0.84 | 1.06 | 0.35 | 0.53 | 0.60 | 0.80 |
| Net Interest Margin | 3.96 | 4.20 | 4.00 | 4.25 | 3.82 | 4.21 | 3.09 | 3.43 | 3.50 | 3.83 |
| Loss Provision to Loans | 0.73 | 0.64 | 0.95 | 1.09 | 1.85 | 1.54 | 1.42 | 1.86 | 1.44 | 1.56 |
| Net Loan Loss to Loans | 0.59 | 0.48 | 0.98 | 0.90 | 1.59 | 1.47 | 1.33 | 1.53 | 1.31 | 1.35 |
| Noncurrent Loans to Loans | 2.22 | 2.18 | 2.27 | 2.21 | 3.86 | 3.36 | 5.44 | 5.22 | 4.34 | 4.08 |
| Loss Reserve to Loans | 1.81 | 1.88 | 1.90 | 2.07 | 2.71 | 2.98 | 2.90 | 3.08 | 2.64 | 2.84 |
| Loss Reserve to Noncurrent Loans | 81.34 | 86.39 | 83.60 | 93.56 | 70.34 | 88.65 | 53.27 | 58.98 | 60.87 | 69.49 |
| Loans to Assets | 54.30 | 52.19 | 62.86 | 60.32 | 65.52 | 61.47 | 67.52 | 63.69 | 64.80 | 61.29 |
| Loans to Deposits | 61.28 | 58.92 | 74.68 | 71.17 | 85.10 | 78.81 | 89.97 | 84.06 | 82.90 | 77.77 |
| Equity Capital to Assets | 8.27 | 8.50 | 7.18 | 7.49 | 6.33 | 6.89 | 5.52 | 5.78 | 6.27 | 6.60 |
| Estimated Leverage Ratio | 8.21 | 8.43 | 6.85 | 7.26 | 5.97 | 6.56 | 5.10 | 5.36 | 5.91 | 6.26 |
| Estimated Risk-Based Capital Ratio | 14.76 | 15.50 | 11.41 | 12.36 | 9.18 | 10.63 | 8.28 | 9.15 | 9.38 | 10.41 |

Banking Research & Statistics

## *Aggregate Condition Data for National Banks By Size*
## *(Data Through First Quarter of Each Year)*

| | *Under $300M* | | *$300M-$1B* | | *$1B-$10B* | | *Over $10B* | | *Total* | |
|---|---|---|---|---|---|---|---|---|---|---|
| | *1991* | *1992* | *1991* | *1992* | *1991* | *1992* | *1991* | *1992* | *1991* | *1992* |
| Balance Sheet ($ Billions) | | | | | | | | | | |
| Assets | 254.69 | 249.45 | 159.03 | 165.33 | 610.89 | 598.32 | 933.56 | 967.02 | 1,958.17 | 1,980.12 |
| Loans | 138.29 | 130.19 | 99.96 | 99.72 | 400.28 | 367.76 | 630.32 | 615.86 | 1,268.85 | 1,213.53 |
| Real Estate (RE) | 71.59 | 70.97 | 46.79 | 50.39 | 148.81 | 145.36 | 236.50 | 235.89 | 503.69 | 502.61 |
| Commercial & Industrial (C&I) | 28.13 | 24.42 | 22.05 | 19.66 | 108.51 | 90.79 | 220.86 | 208.53 | 379.56 | 343.41 |
| Consumer (Cnsmr) | 28.18 | 25.22 | 24.45 | 23.19 | 104.54 | 96.04 | 78.78 | 82.40 | 235.95 | 226.85 |
| Noncurrent Loans | 3.08 | 2.83 | 2.27 | 2.21 | 15.44 | 12.36 | 34.31 | 32.14 | 55.10 | 49.53 |
| Noncurrent RE Loans | 1.50 | 1.46 | 1.26 | 1.28 | 8.35 | 6.78 | 17.01 | 17.52 | 28.12 | 27.05 |
| Noncurrent C&I Loans | 1.32 | 1.14 | 0.70 | 0.59 | 4.76 | 3.37 | 11.80 | 10.23 | 18.57 | 15.33 |
| Noncurrent Cnsmr Loans | 0.24 | 0.21 | 0.24 | 0.22 | 1.62 | 1.47 | 1.27 | 1.49 | 3.37 | 3.39 |
| Other Real Estate Owned | 1.62 | 1.53 | 1.10 | 1.02 | 5.98 | 5.41 | 7.73 | 10.46 | 16.44 | 18.43 |
| Investment Securities | 75.84 | 81.41 | 35.31 | 40.58 | 105.74 | 126.94 | 106.74 | 123.58 | 323.62 | 372.51 |
| Total Liabilities | 233.62 | 228.25 | 147.61 | 152.94 | 572.21 | 557.08 | 882.00 | 911.17 | 1,835.44 | 1,849.45 |
| Total Deposits | 225.68 | 220.95 | 133.84 | 140.12 | 470.38 | 466.65 | 700.62 | 732.61 | 1,530.53 | 1,560.33 |
| Domestic Deposits | 225.54 | 220.82 | 133.53 | 139.83 | 455.72 | 458.78 | 517.52 | 545.36 | 1,332.31 | 1,364.79 |
| Loan Loss Reserve | 2.50 | 2.45 | 1.90 | 2.06 | 10.86 | 10.95 | 18.28 | 18.95 | 33.54 | 34.42 |
| Equity Capital | 21.06 | 21.20 | 11.42 | 12.38 | 38.69 | 41.24 | 51.56 | 55.85 | 122.73 | 130.67 |
| Total Capital | 22.89 | 22.80 | 12.48 | 13.48 | 44.27 | 46.08 | 72.46 | 76.30 | 152.10 | 158.66 |
| Balance Sheet Changes ($ Billions) | | | | | | | | | | |
| Year-To-Date Changes | | | | | | | | | | |
| Assets | 0.62 | -0.79 | -0.77 | 1.25 | 1.12 | -10.85 | -26.70 | 9.59 | -25.73 | -0.81 |
| Loans | -0.07 | -1.70 | -0.42 | 0.21 | 7.75 | -9.41 | -13.92 | -3.07 | -6.66 | 13.98 |
| Noncurrent Loans | 0.22 | 0.08 | 0.12 | -0.03 | 1.29 | -0.39 | 1.68 | -0.46 | 3.31 | 0.80 |
| Other Real Estate Owned | 0.05 | -0.01 | 0.12 | 0.00 | 0.92 | 0.04 | 0.90 | 0.75 | 1.99 | 0.77 |
| Investment Securities | 3.26 | 1.72 | 2.40 | 2.14 | 2.15 | 3.87 | 3.00 | 4.76 | 10.81 | 12.49 |
| Total Liabilities | 0.32 | -1.16 | -0.94 | 0.74 | -1.23 | -11.89 | -26.69 | 7.71 | -28.54 | -4.61 |
| Deposits | 0.80 | -0.58 | 0.48 | 1.11 | -8.24 | -8.58 | -18.12 | -1.51 | -25.07 | 9.56 |
| Loan Loss Reserve | 0.10 | 0.03 | 0.03 | 0.03 | 0.29 | 0.04 | 1.01 | 0.58 | 0.59 | 0.68 |
| Equity Capital | 0.30 | 0.37 | 0.18 | 0.51 | 2.35 | 1.04 | -0.02 | 1.88 | 2.81 | 3.80 |
| Total Capital | 0.28 | 0.29 | 0.23 | 0.48 | 1.92 | 0.95 | 0.59 | 2.11 | 3.03 | 3.83 |
| First Quarter Changes | | | | | | | | | | |
| Assets | 0.62 | -0.79 | -0.77 | 1.25 | 1.12 | 10.85 | 26.70 | 9.59 | -25.73 | 0.81 |
| Loans | -0.07 | -1.70 | -0.42 | 0.21 | 7.75 | -9.41 | -13.92 | -3.07 | -6.66 | 13.98 |
| Noncurrent Loans | 0.22 | 0.08 | 0.12 | -0.03 | 1.29 | -0.39 | 1.68 | -0.46 | 3.31 | 0.80 |
| Other Real Estate Owned | 0.05 | -0.01 | 0.12 | 0.00 | 0.92 | 0.04 | 0.90 | 0.75 | 1.99 | 0.77 |
| Investment Securities | 3.26 | 1.72 | 2.40 | 2.14 | 2.15 | 3.87 | 3.00 | 4.76 | 10.81 | 12.49 |
| Total Liabilities | 0.32 | -1.16 | -0.94 | 0.74 | -1.23 | -11.89 | -26.69 | 7.71 | 28.54 | -4.61 |
| Deposits | 0.80 | -0.58 | 0.48 | 1.11 | -8.24 | -8.58 | -18.12 | -1.51 | -25.07 | -9.56 |
| Loan Loss Reserve | 0.10 | 0.03 | 0.03 | 0.03 | 0.29 | 0.04 | 1.01 | 0.58 | 0.59 | 0.68 |
| Equity Capital | 0.30 | 0.37 | 0.18 | 0.51 | 2.35 | 1.04 | -0.02 | 1.88 | 2.81 | 3.80 |
| Total Capital | 0.28 | 0.29 | 0.23 | 0.48 | 1.92 | 0.95 | 0.59 | 2.11 | 3.03 | 3.83 |

Banking Research & Statistics

## *Aggregate Performance Data For National Banks By Region*

## (Data Through First Quarter of 1992)

| | *Northeastern* | *Southeastern* | *Central* | *Midwestern* | *Southwestern* | *Western* | *Total* |
|---|---|---|---|---|---|---|---|
| Industry Structure | | | | | | | |
| Number of Banks | 413 | 511 | 774 | 644 | 890 | 503 | 3,735 |
| Number of Banks with Losses | 46 | 63 | 27 | 26 | 67 | 67 | 296 |
| Number of Failed Banks | 3 | 2 | 0 | 0 | 2 | 2 | 9 |
| Income Statement ($ Billions) | | | | | | | |
| Year-To-Date | | | | | | | |
| Net Income | 0.91 | 0.74 | 0.81 | 0.46 | 0.49 | 0.53 | 3.95 |
| Net Interest Income | 5.78 | 2.97 | 3.19 | 1.26 | 1.64 | 4.10 | 18.94 |
| Noninterest Income | 3.59 | 1.24 | 1.24 | 0.99 | 0.74 | 2.01 | 9.81 |
| Noninterest Expense | 6.54 | 2.81 | 2.85 | 1.41 | 1.69 | 3.86 | 19.16 |
| Loan Loss Provision | 1.95 | 0.51 | 0.51 | 0.22 | 0.19 | 1.36 | 4.75 |
| Securities Gains, Net | 0.33 | 0.16 | 0.06 | 0.04 | 0.08 | 0.01 | 0.69 |
| Extraordinary Income, Net | 0.07 | 0.00 | 0.00 | 0.00 | 0.01 | 0.02 | 0.10 |
| Net Loan Loss | 1.84 | 0.42 | 0.46 | 0.19 | 0.19 | 1.00 | 4.10 |
| First Quarter | | | | | | | |
| Net Income | 0.91 | 0.74 | 0.81 | 0.46 | 0.49 | 0.53 | 3.95 |
| Net Interest Income | 5.78 | 2.97 | 3.19 | 1.26 | 1.64 | 4.10 | 18.94 |
| Noninterest Income | 3.59 | 1.24 | 1.24 | 0.99 | 0.74 | 2.01 | 9.81 |
| Noninterest Expense | 6.54 | 2.81 | 2.85 | 1.41 | 1.69 | 3.86 | 19.16 |
| Loan Loss Provision | 1.95 | 0.51 | 0.51 | 0.22 | 0.19 | 1.36 | 4.75 |
| Securities Gains, Net | 0.33 | 0.16 | 0.06 | 0.04 | 0.08 | 0.01 | 0.69 |
| Extraordinary Income, Net | 0.07 | 0.00 | 0.00 | 0.00 | 0.01 | 0.02 | 0.10 |
| Net Loan Loss | 1.84 | 0.42 | 0.46 | 0.19 | 0.19 | 1.00 | 4.10 |
| Performance Ratios (%) | | | | | | | |
| Year-To-Date | | | | | | | |
| Return on Equity | 9.30 | 14.02 | 13.78 | 18.29 | 16.71 | 9.30 | 12.28 |
| Return on Assets | 0.55 | 0.95 | 0.98 | 1.41 | 1.09 | 0.59 | 0.80 |
| Net Interest Margin | 3.49 | 3.79 | 3.86 | 3.85 | 3.61 | 4.56 | 3.83 |
| Loss Provision to Loans | 1.89 | 1.08 | 1.02 | 1.21 | 0.89 | 2.16 | 1.56 |
| Net Loan Loss to Loans | 1.77 | 0.88 | 0.92 | 1.03 | 0.91 | 1.57 | 1.35 |
| Noncurrent Loans to Loans | 5.92 | 2.64 | 2.37 | 1.87 | 3.03 | 4.51 | 4.08 |
| Loss Reserve to Loans | 3.32 | 2.22 | 2.09 | 2.06 | 2.69 | 3.38 | 2.84 |
| Loss Reserve to Noncurrent Loans | 56.01 | 84.18 | 88.42 | 110.06 | 88.81 | 74.90 | 69.49 |
| Loans to Assets | 62.57 | 59.04 | 61.32 | 56.28 | 46.00 | 70.51 | 61.29 |
| Loans to Deposits | 80.74 | 76.70 | 77.97 | 72.97 | 53.56 | 88.16 | 77.77 |
| Equity Capital to Assets | 5.99 | 6.75 | 7.31 | 7.74 | 6.63 | 6.50 | 6.60 |
| Estimated Leverage Ratio | 5.69 | 6.41 | 7.02 | 7.57 | 6.40 | 5.93 | 6.26 |
| Estimated Risk-Based Capital Ratio | 9.75 | 10.59 | 10.78 | 12.62 | 12.31 | 9.82 | 10.41 |

Banking Research & Statistics

## *Aggregate Condition Data For National Banks By Region*
## (Data Through First Quarter of 1992)

| | *Northeastern* | *Southeastern* | *Central* | *Midwestern* | *Southwestern* | *Western* | *Total* |
|---|---|---|---|---|---|---|---|
| Balance Sheet ($ Billions) | | | | | | | |
| Assets | 661.22 | 319.31 | 328.91 | 131.58 | 182.00 | 357.10 | 1,980.12 |
| Loans | 413.75 | 188.54 | 201.68 | 74.05 | 83.72 | 251.80 | 1,213.53 |
| Real Estate (RE) | 160.27 | 93.54 | 75.58 | 26.15 | 33.10 | 113.97 | 502.61 |
| Commercial & Industrial (C&I) | 129.08 | 42.94 | 64.32 | 18.47 | 25.53 | 63.07 | 343.41 |
| Consumer (Cnsmr) | 70.23 | 36.17 | 40.87 | 17.05 | 15.66 | 46.86 | 226.85 |
| Noncurrent Loans | 24.50 | 4.97 | 4.78 | 1.39 | 2.54 | 11.36 | 49.53 |
| Noncurrent RE Loans | 14.28 | 3.22 | 1.93 | 0.48 | 1.16 | 5.98 | 27.05 |
| Noncurrent C&I Loans | 6.66 | 1.29 | 2.02 | 0.43 | 0.97 | 3.95 | 15.33 |
| Noncurrent Cnsmr Loans | 1.63 | 0.26 | 0.37 | 0.40 | 0.11 | 0.62 | 3.39 |
| Other Real Estate Owned | 8.56 | 2.53 | 1.78 | 0.46 | 1.69 | 3.41 | 18.43 |
| Investment Securities | 106.45 | 68.29 | 64.93 | 35.17 | 56.71 | 40.96 | 372.51 |
| Total Liabilities | 621.60 | 297.75 | 304.88 | 121.39 | 169.94 | 333.89 | 1,849.45 |
| Total Deposits | 512.47 | 245.79 | 258.65 | 101.48 | 156.31 | 285.63 | 1,560.33 |
| Domestic Deposits | 371.98 | 240.02 | 237.90 | 101.22 | 154.82 | 258.86 | 1,364.79 |
| Loan Loss Reserve | 13.73 | 4.18 | 4.22 | 1.52 | 2.25 | 8.51 | 34.42 |
| Equity Capital | 39.62 | 21.56 | 24.03 | 10.19 | 12.06 | 23.21 | 130.67 |
| Total Capital | 53.21 | 23.65 | 28.13 | 11.17 | 13.33 | 29.16 | 158.66 |
| Balance Sheet Changes ($ Billions) | | | | | | | |
| Year-To-Date Changes | | | | | | | |
| Assets | −3.82 | 10.62 | −6.69 | 3.72 | 1.16 | −5.80 | −0.81 |
| Loans | −5.77 | −0.91 | −0.65 | 1.00 | −1.06 | −6.58 | −13.98 |
| Noncurrent Loans | −1.08 | −0.03 | −0.14 | 0.01 | −0.04 | 0.46 | −0.80 |
| Other Real Estate Owned | 0.66 | 0.02 | 0.07 | −0.01 | −0.12 | 0.16 | 0.77 |
| Investment Securities | 1.85 | 3.16 | 0.70 | 2.80 | 1.82 | 2.16 | 12.49 |
| Total Liabilities | 4.88 | 9.98 | −7.32 | 3.21 | 0.73 | −6.32 | −4.61 |
| Deposits | −4.53 | 0.64 | −2.47 | 0.63 | −0.52 | −3.30 | −9.56 |
| Loan Loss Reserve | 0.10 | 0.11 | 0.07 | 0.04 | 0.00 | 0.37 | 0.68 |
| Equity Capital | 1.06 | 0.65 | 0.63 | 0.50 | 0.43 | 0.52 | 3.80 |
| Total Capital | 1.24 | 0.62 | 0.62 | 0.54 | 0.44 | 0.37 | 3.83 |
| First Quarter Changes | | | | | | | |
| Assets | 3.82 | 10.62 | 6.69 | 3.72 | 1.16 | −5.80 | 0.81 |
| Loans | 5.77 | −0.91 | −0.65 | 1.00 | −1.06 | −6.58 | −13.98 |
| Noncurrent Loans | 1.08 | 0.03 | 0.14 | 0.01 | 0.04 | 0.46 | 0.80 |
| Other Real Estate Owned | 0.66 | 0.02 | 0.07 | −0.01 | −0.12 | 0.16 | 0.77 |
| Investment Securities | 1.85 | 3.16 | 0.70 | 2.80 | 1.82 | 2.16 | 12.49 |
| Total Liabilities | −4.88 | 9.98 | −7.32 | 3.21 | 0.73 | −6.32 | 4.61 |
| Deposits | −4.53 | 0.64 | −2.47 | 0.63 | −0.52 | −3.30 | −9.56 |
| Loan Loss Reserve | 0.10 | 0.11 | 0.07 | 0.04 | 0.00 | 0.37 | 0.68 |
| Equity Capital | 1.06 | 0.65 | 0.63 | 0.50 | 0.43 | 0.52 | 3.80 |
| Total Capital | 1.24 | 0.62 | 0.62 | 0.54 | 0.44 | 0.37 | 3.83 |

Banking Research & Statistics

# Glossary

## Definitions

*Bank Failures:* National banks that have been closed by, or have received financial assistance from, the Federal Deposit Insurance Corporation (FDIC).

*Commercial Real Estate Loans:* Loans secured by nonfarm nonresidential properties.

*Construction Loans:* Loans for construction and land development.

*Extraordinary Income:* Net income from events and transactions that are "unusual and infrequent."

*Investment Securities:* Total securities excluding those held in trading accounts.

*Leverage Ratio:* Ratio of estimated Tier 1 capital to estimated tangible total assets.

*Loans:* Total loans and leases less unearned income.

*Net Loan Losses:* Total loans and leases charged off (removed from balance sheet because of uncollectibility) during the period, less amounts recovered on loans and leases previously charged off.

*Loan Loss Reserve:* The allowance for loan and lease losses.

*National Banks:* Nationally chartered commercial banks in the U.S. and its territories that are insured by either the Bank Insurance Fund or the Savings Association Insurance Fund of the FDIC and filed a Call report.

*Noncurrent Loans:* The sum of loans and leases 90 days or more past due plus nonaccrual loans.

*Net Interest Margin:* Net interest income as a percent of average assets.

*Regions:* Northeast (NE) — Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands; Southeast (SE) — Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia; Central (CE) — Illinois, Indiana, Kentucky, Michigan, Ohio, Wisconsin; Midwest (MW) — Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota; Southwest (SW) — Arkansas, Louisiana, New Mexico, Oklahoma, Texas; West (WE) — Alaska, Arizona, California, Colorado, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming. NOTE: Starting with this report, each bank in a multinational bank holding company is included in the region in which the bank is located.

*Other Real Estate Owned (OREO):* Real estate acquired by a bank for debts previously contracted (i.e., foreclosed real estate). Also includes property formerly used or intended for use in banking purposes.

*Residential Real Estate:* Loans secured by 1-4 family residential properties plus loans secured by multifamily (5 or more) residential properties.

*Risk-based Capital Ratio:* Ratio of estimated total capital to estimated risk-weighted assets in percent.

*Securities Gains:* Net of realized gains and losses on securities not held in trading account.

*Total Capital:* Total risk-based capital is the sum of Tier 1 and Tier 2 as reported on Call report schedule RC-R

## Computation Methodology

For performance ratios constructed by dividing an income statement (flow) item by a balance sheet (stock) item the income statement item for the period was annualized (multiplied by the number of periods in a year) and the average of the balance sheet item for the period (beginning-of-period amount plus end-of-period amount divided by two) was used.

# Recent Corporate Decisions

On January 13, 1992, the Office of the Comptroller of the Currency (OCC) conditionally approved a proposal from Concord Computing Corporation (Concord), a nonbank holding company, to charter a limited purpose national bank. The proposal, motivated by Concord's desire to have direct access to the Federal Reserve System's payment system, will provide credit card-related services to trucking companies and retailers. Concord also plans to use the bank to offer its own credit cards affiliated with the nation's two major credit card providers. The conditional approval required Concord to receive approval from the Federal Reserve Board to become a bank holding company. The bank also must obtain OCC approval before it can expand its activities or become a full-service bank.

On January 13, 1992, the OCC denied a California bank's request to establish an operating subsidiary to engage in commercial lines of credit and account receivable financing. The OCC concluded that the bank did not have the financial and managerial resources necessary to support this type of activity.

On January 28, 1992, the OCC granted conditional approval to a savings and loan association's application to convert to a national bank (First National Bank of Indiana, Merrillville, Indiana). Although the pre-conversion examination found the overall condition of the thrift to be satisfactory, the OCC imposed several supervisory conditions, such as a requirement that the thrift increase its Tier 1 capital and satisfy the OCC's risk-based capital requirements before the conversion can be completed.

On January 28, 1992, the OCC conditionally approved a proposal from Chase Manhattan Bank, N.A., New York, New York, to expand the activities of an existing operating subsidiary. The subsidiary is a general partner and operator of a commodity pool. Expanded activities included the purchase and sale of futures and options on foreign government securities and options on futures contracts on such securities, and investment in other securities that a bank may purchase and sell for its own account. The OCC's approval imposed several supervisory conditions.

On February 11, 1992, the OCC denied a quasi-reorganization proposal from a bank in the Southwestern District. The OCC denied the application because it did not meet the "substantial change in ownership" requirement for approval of a quasi-reorganization. The bank's control group argued that an effective change in ownership had occurred due to the departure of two dominant members of the original control group. The OCC was not persuaded by that argument because the current owners historically have owned at least 60 percent of the bank.

On February 25, 1992, the OCC approved a mobile branch application filed by INB National Bank, Indianapolis, Indiana. The branch will retrieve deposits and other related banking documents from the offices of bank customers. This application marked the first time the OCC has approved a mobile branch facility in Indiana.

On February 28, 1992, the OCC approved a Competitive Equality Banking Act of 1987 (CEBA) credit card bank entitled JCPenney Card Bank, N.A. The bank will be located in Harrington, Delaware. The parent company currently owns a grandfathered credit card nonbank bank in the same town which is subject to an annual 7 percent asset growth restriction imposed under CEBA. The proposed new bank will permit the parent to expand its credit card operations. In June 1990, the OCC approved a similar proposal involving another grandfathered credit card nonbank bank (First Deposit National Credit Card Bank, Concord, New Hampshire).

On March 5, 1992, the OCC denied applicants' request to extend, for a third time, the proposed bank's stock offering period and to reduce the proposed bank's capital from $7 million to $5 million. The OCC also rescinded the preliminary approval of the application to charter this new national bank, which the OCC had preliminarily approved in February, 1991. The OCC rescinded the approval because, after twelve months, the organizers had only been able to raise $3 million of the the initial $7 million in capital. The OCC ruled that the organizers had failed to meet the agency's basic market test which requires community and investor support.

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*This section summarizes selected corporate decisions completed during the first quarter of 1992. The cases are noteworthy because they represent issues of importance or unusual methods of accomplishing a particular expansion activity. Copies of the public sections of the applications may be obtained from the Communications Division of the OCC in Washington, D.C.*

## Corporate Decisions Related to the Community Reinvestment Act

On February 27, 1992, the OCC conditionally approved a branch application filed by Commercebank, National Association, Miami, Florida. The OCC considered the bank's Community Reinvestment Act (CRA) performance less than satisfactory in its determination of community credit needs and marketing, in its monitoring and analyzing the geographic distribution of credit provided by the bank, and in its community development. The OCC's conditional approval required the bank to revise its CRA statement to include the bank's CRA goals, a list of the types of credit offered, the terms, and a description of any special programs offered. The bank was also required to maintain a record of customer contacts and community outreach efforts, including a list of the dates the activities were performed. Records were also to be maintained that reflected the purpose and nature of meetings relating to credit inquiries, credit products, or other subjects relating to CRA assessment factors. The conditional approval also required records of CRA loans originated through the officer call program.

The conditional approval also required the bank to:

- establish a continuing program for CRA training for officers, directors, and employees of the bank;
- meet with community leaders to determine the credit needs of all community members and document these meetings; and,
- revise the bank's review of census tract information to assure that accurate census tract data is determined for each loan.

The conditional approval also required the bank's board of directors to:

- analyze the geographical distribution of residential mortgages and consumer credits, by type, including existing loans, credit approvals, and denials;
- assure that the bank's written policy on branch openings and closings, as well as its service reduction policy, follows the guidelines set forth in OCC banking circular 189; and,
- review the terms offered on residential mortgages and home improvement loans to determine how the terms and underwriting standards impact the ability of low- to moderate-income families to obtain these products.

All of these conditions must be met and the bank's CRA performance must be improved to a satisfactory level before the branch may be established. Satisfactory CRA performance must be substantiated by an OCC examination, the evaluation of which will subsequently be publicly available.

On February 27, 1992, Commercebank, National Association, Miami, Florida, was also granted conditional approval to relocate its head office. The OCC imposed the same conditions imposed under this application as it had under the branch application.

On March 4, 1992, the OCC granted conditional approval to The National Republic Bank of Chicago, Chicago, Illinois, to relocate its head office. The bank's performance under CRA was rated less than satisfactory because of inadequate supervision of its CRA efforts by the bank's board and senior management, inadequate identification of the credit needs of the bank's community, inadequate efforts to market the bank's services to the community, and a large concentration of loans outside of the bank's delineated community. The bank also lacked documentation to support its delineation of the community to be served, and had inadequately analyzed the geographic distribution of the bank's extensions of credit, applications, and denials. Bank personnel also appeared to be unaware of community development projects in the bank's community. The OCC ruled that it would withhold final approval until the bank submitted a board-approved plan to address CRA deficiencies identified in the OCC's May 21, 1991, examination of the bank and the bank had demonstrated progress correcting the deficiencies.

On March 12, 1992, the OCC gave conditional approval to Credit International Bank, N.A. (CIB), to acquire, by merger, Federal City National Bank (FCNB), Washington, D.C. Because of the emergency nature of the acquisition, the CIB's board of directors was required to develop and submit an acceptable CRA action plan within 30 days of consummation of the proposal. The plan should

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The information related to the Community Reinvestment Act (CRA) is presented pursuant to Banking Circular 238, dated June 15, 1989. It [illegible] the OCC's decisions [illegible] that have been conditionally approved [illegible] the CRA. The decision letters [illegible] interpretations [illegible]. Decision [illegible] available upon request from [illegible].

- reassess and document the bank's community delineation;

- determine the credit needs of the local community using marketing studies or other analyses;

- develop procedures to monitor the geographic distribution of the bank's approvals, credit applications, and credit denials;

- establish and maintain regular communications with civic and community leaders to determine the credit needs of the bank's community, and take steps to become aware of community development and redevelopment programs;

- establish a marketing program to communicate the bank's credit services to the community;

- establish a program to train bank employees in the bank's CRA goals and plans;

- establish procedures to periodically report on the bank's adherence to the action plan to the board of directors. The reporting method should serve as a "self assessment program" of the bank's compliance with CRA; and,

- develop documentation procedures to support the bank's CRA compliance efforts.

On March 16, 1992, the OCC granted conditional approval to The Liberty National Bank in Paris, Paris, Texas, to establish a branch. The OCC rated the bank's CRA performance less than satisfactory in determining community credit needs, in the types of loans offered and extended, and in the bank's lack of involvement in community development.

Before the branch is permitted to open, the bank must develop a CRA compliance program; adopt CRA policies, procedures, goals, and a methodology for self assessment; improve assessment and documentation of the credit needs of the community; document bank director involvement in CRA planning; develop new credit products if necessary to meet the identified credit needs; and analyze deposits and loan approvals and denials by geographic location, drawing conclusions on how the distribution relates to CRA.

On March 17, 1992, the OCC granted conditional approval to The First National Bank and Trust Company, Nicholasville, Kentucky, to establish two customer bank communications terminals (CBCT) branches. The OCC rated the bank's performance under CRA less than satisfactory because of lack of an effective plan to ascertain community's credit needs; lack of documented evidence to support management's involvement within the community; inability of the board of directors to demonstrate that CRA is considered in its planning process; and the board's failure to demonstrate that a CRA training program has been implemented for the bank's employees. The OCC will withhold final approval of this application until it has determined that the bank's CRA rating is satisfactory.

On March 19, 1992, the OCC granted conditional approval to Puget Sound National Bank, Tacoma, Washington, to establish two CBCT branches. That same day the OCC also granted conditional approval to the bank's application to establish a brick and mortar branch. The OCC's conditional approvals were based on the bank's less than satisfactory performance under CRA. The bank's efforts to ascertain the credit needs of its delineated community were not adequate; overall supervision by the board of directors was inadequate; and the geographic distribution of credit extensions and denials by type was unavailable due to the incompleteness of the bank's data. The bank also failed to document its marketing efforts to ascertain community needs and compliance with applicable laws. Final approval will not be issued until the bank has achieved a satisfactory level of performance under the CRA.

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Ballard C. Gilmore
Corporate Activity Division

# Speeches and Congressional Testimony

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Of the Comptroller of the Currency:

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Remarks of Robert L. Clarke, Comptroller of the Currency, before the Independent Bankers Association of America, on the impact of new bank legislation on bank operations, San Antonio, Texas, February 12, 1992 . . . . . 19

# Statement of Robert L. Clarke, Comptroller of the Currency, before the House Committee on Banking, Finance and Urban Affairs, on the supervisory treatment of real estate loans, Washington, D.C., January 3, 1992

Mr. Chairman and members of the committee, I appreciate this opportunity to testify on the current policies of the Office of the Comptroller of the Currency (OCC) governing the supervision and examination of national banks. In my testimony before this committee on August 9, 1990, I provided a general overview of the examination process. My remarks today will focus on two interagency policy statements issued in 1991 which clarify the supervisory treatment of real estate loans and the accounting standards that banks use in working with troubled borrowers. We issued these statements to promote consistency among regulatory agencies and to avoid misunderstandings about supervisory policies that might impede the availability of credit to sound borrowers. The policy statements do not represent an effort to relax supervisory standards; rather, they clarify existing policy.

## Loan Classification Standards

Our central responsibility as supervisors is to ensure the safety and soundness of the banking system. An essential part of supervision is ensuring that a bank's financial statements accurately reflect its condition. In particular, when asset values erode, loan classifications should reflect the actual extent of losses on the loans. If losses are not fully recognized, the amount of capital on bank balance sheets will be overstated, and financial statements will not reveal the true condition of the bank.

While safety and soundness demands that loan classifications fully recognize any losses that have occurred, it is also important to guard against classifying troubled loans more severely than circumstances warrant. If banks are required to write nonperforming loans down to less than the amount they could reasonably expect to recover on those loans, their capital will be understated, curtailing the capacity of banks to extend credit. Excessively stringent loan classifications could also discourage banks from making new loans, even to sound borrowers. Examiners should therefore require banks to recognize the actual extent of loan losses — neither more nor less — based on the best available information on the current value of the loan portfolio. This is fully consistent with generally accepted accounting principles. This has been, and continues to be, the policy of the OCC.

After a bank has determined the condition of its troubled loans, it can proceed to develop a sound work-out plan. By addressing problems directly, banks maximize their eventual recovery from a troubled loan. A bank's decision regarding work-out of a troubled loan rests on the same types of considerations that underlie any extension of credit: the borrower's ability to repay the loan and the value of collateral that the borrower can pledge. In some instances, a bank's best course of action regarding a troubled credit is to foreclose; in other instances, a bank maximizes its expected recovery from a troubled loan by working with the borrower to restructure a loan, and perhaps extending additional credit. Our policy is, and has been, to encourage banks to develop work-out strategies that maximize recovery. Such strategies are best not only for the bank, but also for the banking system and the overall economy. Flexibility in the work-out of troubled loans is fully consistent with accurate loan classification.

The interagency statements issued on March 1, 1991, and November 7, 1991, were not intended to change the OCC's policies regarding the classification and work-out of troubled loans, but only to achieve greater consistency in an area of increasing importance to the banking industry. The increase in the role of commercial banks in real estate lending, and the growth in troubled real estate assets, has made it necessary for examiners to become more familiar with our policies in this area, and to apply these policies consistently. This was part of the motivation for issuing the interagency policy statements, and for holding meetings in Baltimore, Maryland on December 16 and 17 to discuss them.

The policy statements were also aimed at clarifying our policies for bankers and borrowers. We wanted to minimize the likelihood that banks would overreact to depressed market conditions and increased supervisory scrutiny by cutting off credit to sound borrowers. A supervisor's insistence that losses on nonperforming real estate loans must be recognized in loan classifications can easily be misconstrued as creating an environment in which examiners will criticize all real estate loans indiscriminately. We have taken great pains to assure all concerned parties that this is not the OCC's policy.

## Interagency Policy Statements

On March 1, 1991, the OCC, Federal Deposit Insurance Corporation, Federal Reserve Board, and Office of Thrift Supervision issued a joint statement to clarify certain regulatory and accounting policies. The agencies' intent was to encourage banks and thrifts to make loans to creditworthy borrowers and work constructively with borrowers experiencing financial difficulties, consistent with safe and sound banking practices.

The policies encourage increased disclosure about the condition of financial institutions's loan portfolios, facilitate extensions of credit to sound borrowers and the workout of problem loans, and better assure sound assessments of the value of real estate that secures loans.

The March 1, 1992, statement contained only two changes to OCC policy. The first change permits banks to record on a cash basis interest income on partially charged-off loans. This change was made to bring OCC policy in line with the policies of the other agencies. The second change was the adoption of American Institute of Certified Public Accountants (AICPA) Practice Bulletin 6 by all of the agencies, which pertains to discount accretion on certain acquired loans. It is consistent with generally accepted accounting principles.

The statement included general language about the supervisory treatment of real estate loans. It stressed that supervisory evaluations of real estate loans are based not on liquidation values, but on the ability of the collateral to generate cash flow over time: a principle that is fully in accordance with generally accepted accounting principles. The statement also reminded examiners that banks should continue to make loans to creditworthy borrowers and work constructively with borrowers that are experiencing financial difficulties, consistent with safe and sound banking practices.

Following the release of this statement, the agencies began developing more detailed guidance on the valuation and classification of commercial real estate loans. We compared our policies governing real estate lending and examined how those policies were applied by examiners at each agency. We determined that our policies were similar, and set about to develop a single written articulation of that policy.

This interagency effort was already well underway on October 8, 1992, when the Treasury Department announced its set of initiatives to increase credit availability. It seemed logical, therefore, to announce our effort at the same time, since real estate lending is at the core of concerns about credit availability.

On November 7, 1992, the four federal banking agencies issued the "Interagency Statement on the Review and Classification of Commercial Real Estate Loans." The intent of this second statement was to ensure that examiners are reviewing commercial real estate loans in a consistent, prudent, and balanced fashion, so as not to interfere with the ability of banks to make appropriate business decisions. The agencies sent a copy of the statement to the chief executive officer of each depository institution and to each bank and thrift examiner.

The November statement covered loan portfolio review procedures, indicators of troubled loans, analysis of loans and collateral values, and the review of institutions's loss allowances. It emphasized that the classification of real estate credits should depend not only on the value of the collateral, but also on the borrower's willingness and capacity to repay the loan, and on the income-producing capacity of the properties.

The November statement also describes how examiners analyze the value of collateral. In general, examiners consider the bank's appraisals of collateral to determine value and review the facts, assumptions, and approaches used in determining the value of the collateral. They do not ordinarily challenge the bank's underlying assumptions when they differ only slightly from industry norms. Nonetheless, it is the examiner's responsibility to ensure that loan values are based on assumptions that are both prudent and realistic, and not on overly optimistic or pessimistic assumptions.

## Conclusion

The interagency statements represent efforts of the four federal banking agencies to communicate our supervisory treatment of real estate loans and the accounting standards that banks use in working with troubled borrowers, and to achieve greater consistency in application. The statements do not relax in any way classification standards for real estate loans. OCC policy continues to require banks to recognize the actual extent of loan losses based on accurate and realistic assumptions.

# Remarks of Robert L. Clarke, Comptroller of the Currency, before the Independent Bankers Association of America, on the impact of new bank legislation on bank operations, San Antonio, Texas, February 12, 1992

A few nights ago, I happened to see a Russian farmer in a television interview on the Cable News Network (CNN) describe the situation he faces. The CNN reporter asked the farmer: "What sort of harvest have you had this year?"

The Russian farmer answered: "Average."

The reporter then asked: "What does that mean?"

And the farmer replied: "Worse than last year, better than next."

That got me thinking. The observation "worse than the last year, better than the next" could also be a concise history of the banking industry's record in achieving its lobbying goals in Washington over the last six years.

There have been a few exceptions. Your group is one. You have paid attention to banking legislation, and you have worked effectively to defeat some proposals.

I may not always agree — in fact, I sometimes disagree — politically and philosophically — with your objectives. But I've come to respect your willingness to get involved in legislation and your ability to persuade others of your position.

But before you get too pleased with your own successes, let me also point out what's been happening in the larger arena. Over the past six years, while you have won some individual battles, the banking industry has been losing the war.

Over the past six years, you have seen a steady increase in your regulatory burden — not because that's what the regulators want, but because that's what Congress wants.

Every time Congress has considered banking reform legislation, you have lost a little more freedom. Every time Congress has voted a new banking law, bank regulators have lost more flexibility. And believe me, the worst is yet to come.

Last fall, Congress passed legislation that will severely limit the banking industry and its ability to serve the U.S. economy of which it is such a vital part. And that is amazing and ironic when you consider that the legislation had its origin in an attempt to achieve comprehensive banking reform — reform intended to increase banking's profitability, its ability to compete, and its usefulness to customers.

At first glance, the legislation Congress passed seems perversely intended to reduce banking's profitability, to restrict its usefulness to customers, and to make it even less able to compete than it already is. But a deeper reading reveals that Congress was aware of those consequences.

They are costs — costs to you — that Congress thought you could afford to pay, if the result was to eliminate risk from banking. Not to manage risk. But to eliminate it. And, if not eliminate it, at least control it by strict regulation. Because risk, after all, lay at the root of all of banking's problems — never mind that banking is the business of taking and managing risk.

How did such an end come about?

Perhaps the most important reason is that neither Congress nor the public drew a distinction between the collapse of the savings and loan industry and banking's problems in recent years. After all, both industries broke their respective federal deposit insurance funds.

Our lawmakers had faced the wrath of taxpayers over the bailout of the savings and loan industry. Quite understandably — if not justifiably — the course of action they took when faced with the problems of the commercial banking system was to do everything they could to keep from facing the taxpayers' wrath again — Priority Number One, as the saying goes.

The only possible outcome had to be bad law. The only question was: how bad? Well, it won't kill the banking system — immediately. But it is a threatening complication for such a weakened patient.

Consider some of the provisions in this law: more costly duplication of supervision and the opportunity for inconsistency among regulators . . . mandatory regulatory actions once tripwires have been triggered . . . regulatory oversight of bank officers' compensation more requirements for consumer reporting . . . mandatory regulations on bank operating standards Perhaps the most absurd of all: a provision requiring regulators to prescribe the minimum ratio of a bank's book value to its stock price. And so on

Make no mistake about it. It is a new regulatory world — a new order — for banking. And it's not one you will like.

That message, I believe, has yet to hit home in your industry.

This new regulatory world is not optional, for either bankers or regulators. As regulators, we have to carry out the law, and the law requires us to write these regulations, in most cases by the end of 1992.

The regulatory scheme the legislation establishes is far more dangerous to the banking industry than the laws adopted as part of the New Deal. The restrictions in the laws of the 1930s were accompanied by protections and guarantees for banks that, for many years, offset the negative effects of the restrictions. In many ways, banking was protected from competition.

The recent legislation goes in the opposite direction. It protects other financial service providers from competition with banks. The only thing that it protects bankers from is themselves.

Now I'm no fan of protection as public policy. And I would never defend it. But my point is that the New Deal protections showed that the lawmakers of the 1930s at least had the idea that bankers operated in a real world, within a market economy, and against competition.

The lawmakers of 1991, on the other hand, seem to have thought that banks operate in a vacuum where the most important goal of public policy is to limit the exposure of the bank insurance fund.

The reality is that bankers face competition — domestic and international competition — and more of it — every day. The only products that depository institutions can claim as their own these days are federally insured deposits and access to the payments system.

Oddly enough, securities firms under the new legislation will have access to the Fed's discount window while banks will have their use of it severely restricted.

Can direct access to the payments system be that far behind? If that occurs, is federal deposit insurance enough of an attraction to keep the banking industry afloat?

I'm afraid the answer to that question can be found in the mass exodus of deposits from your banks into the uninsured money market funds operated by securities firms.

When it comes to banking, the competition — and the desire to limit it — couldn't be more clear. When it comes to banking, Congress's contribution has been a mountain of restrictive policies.

How did this happen?

I said earlier that one factor was Congress's fear of taxpayer wrath over a possible repeat of the savings and loan bailout. But another equally important factor was the division in the banking industry itself. Because your industry could not present a united front on this — or almost any other — legislation, Congress could safely ignore what you had to say.

It's true you won a few victories. But you suffered some major losses. It's true that the final law could have been worse. But it could also have been much, much better.

For the past six years, you have heard me urge bankers repeatedly to work as a united industry — to speak with one voice when you speak to Congress. Others have said the same thing.

Perhaps the time has come to recognize reality.

In the political debate, you have constantly and consistently pointed out that your interests differ from the interests of your larger counterparts. I'm not talking about theoretical principles — I'm talking about tangible interests.

You stress that you are community institutions serving local needs: The needs of farmers, of consumers, of men and women who own and operate small businesses.

You call your customers by name — not the formal name printed on the loan application form or the deposit slip, but the name they go by when you talk to them on the street, or at the civic club, or at the local school board meeting.

You say that what may be good for an institution with an office in Rome, Italy, may be irrelevant for an institution whose entire market is Rome, Georgia.

I am more and more convinced, with every passing day, that what you say is true.

You've got a case. You argue it well. And the statistics show that — politically — you win more often than you lose. Let's, therefore, take what you say and bring it to its logical conclusion.

Consider for a moment this proposition. Do we have to continue playing banking reform as a zero sum game of winners and losers — big banks versus little banks?

If what you say is true, you and your larger counterparts are in different leagues, and the difference is so great that you may be engaged in separate contests. If it is true — perhaps Congress should recognize it.

Let's reform the banking system so that everyone is a winner. Let's find a way to address your interests — and the interests of your larger counterparts, too.

The next time Congress considers banking reform legislation — and there will be a next time — the Independent Bankers Association of America (IBAA) must again play a role. And I hope that role won't be just to fight off changes you don't want. I hope you will make the case for legislation that addresses the real problems you have — the burdens you have to bear — the costs you have to incur.

Legislation that you can support and not just oppose.

A good place to start would be the mountain of regulations that has piled up like geologic formations — regulations adopted in the name of consumer protection, community development, and safety and soundness.

Congress has directed the Federal Financial Institutions Examination Council (FFIEC) to make a study of all the banking agencies' regulations to assess their burden and make recommendations to reduce that burden. The OCC will take that study seriously.

But let's be realistic. Many of the regulations are there because Congress passed laws that require them. Regulators can't do much about them without a change in the law.

So let's also look hard at the laws that give rise to regulation — including the law that Congress just passed. Let's take a look to see where we can cut out unnecessary reports and unnecessarily burdensome restrictions, all of which cost you money and hurt your ability to serve your customers.

And let's look at the supervisory process itself. We don't really need four federal bank regulatory agencies — especially not with the costly duplication and overlap of responsibilities that Congress has just mandated.

These are dollars and cents issues. They affect your bottom line and your ability to serve your customers just as much as the opportunity to sell new products.

But Congress should also permit you to offer more products — insurance and mutual funds, to name just a couple. These are products your customers want and are purchasing from your non-bank competitors.

Even more important, if last week's decision by the court of appeals stands, national banks in towns of fewer than 5,000 will no longer be able to sell insurance — not even in their own towns. If the decision stands, it becomes even more critical for the banking industry to work together to get clear statutory authority for all banks to offer insurance.

I could stand here and read you what seems to be the ever-growing list of financial service competitors — but you've listened to that litany for going on fifteen years — ever since the birth of money market funds. Or I could cite the alarming decline in bank market share — but that has been a staple of trade association meetings for just as long.

You've heard it all before. Taken together, the events of the last several years blend into one insistent wake-up call — one that some people hear with irritation, one that has become background noise for others, one that some listen to with growing alarm.

Like the problems of our country's educational system, the problems of our banking system demand action now if we are to achieve a long-term payoff. Unfortunately, as a nation, we have a short attention span. We want immediate payoffs — and immediate solutions.

As long as banking presents visible problems — problems that raise the specter of a taxpayer bailout — Congress will focus on the immediate danger and ignore the less visible structural problems that threaten the banking industry's long-term existence.

And as long as you focus only on defeating any change — until you find a new legislative agenda that the entire industry can support — Congress will be free to ignore your views.

In a little more than two weeks, my tenure as Comptroller of the Currency will come to a close. As that time draws closer, a number of people have asked me to summarize my experience in Washington

I tell them that I feel a little bit like the Confederate soldier returning home after Palmettoes. The soldier had been badly wounded and was suffering from dysentery. His home had been burned to the ground His family was living in a tent.

When one of his neighbors asked him how he felt he responded:

"I'm proud to have had the honor of serving my country But I've had just about all the honor I can stand

When I leave office on February 28th, I'll miss having the honor of public service — but I won't miss having to wrestle with Congress. As bankers, you do not have that option. You must continue the fight. The first order of business is to take care of the visible problems — the high number of failures, the heavy losses, the build-up of problem assets that lead to ever higher estimates of insurance fund losses and fears of a taxpayer bailout.

If you can do that — if you can calm Congress's fears — you may still have one more chance for meaningful banking reform. But you will lose that chance if you don't find a way for all bankers — large and small — to be winners.

As the burden of the new law falls more and more on you, I hope that you will redouble your political efforts and concentrate on making some positive change.

For more than 50 years, the decisions made in Washington have affected your institutions just as much as the decisions made in your board rooms and on your officer's platforms. Today that is more true than ever. Tomorrow it will be even more so.

In the meantime, however, all of us are going to have to get acclimated to closer regulation and supervision. And when those tough new regulations begin to appear in the Federal Register, don't blame it on the regulators.

It isn't a matter of policy or individual preference — it's the law. And the law is going to make life a lot harder for both the regulated and the regulator.

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## 567 — October 29, 1991

This letter is in response to the notification submitted by *** (bank) regarding bank's intention to perform certain activities through *** Corporation, (***), its personal property leasing subsidiary. These activities may be categorized as lease consulting services, finder services, and lease servicing and would be provided to unrelated third party lessors which could include non-financial institutions. The specific activities, as you have described them, are as follows:

### Lease Consulting Services

- Review lessor's lease documents to determine the rights and obligations of lessor and lessee with respect to such items as equipment possession, equipment use, equipment return location, equipment storage, lease expiration date, purchase or renewal options, rights of first refusal, and governing definitions of equipment value.
- Analyze the current market for the equipment through industry surveys and other sources.
- Provide financial advice concerning the fair market value and/or fair rental value of the equipment after conducting an inspection of the equipment, its maintenance records and contracts, and after considering such factors as equipment description and specifications, document terms affecting value, orderly liquidation value and forced liquidation value, on both present and future value bases.
- Provide financial advice concerning the comparative profitability of a sale, lease or release of the equipment, the cost and benefits of equipment repair or refurbishment, and an equipment disposition strategy.
- Evaluate all bids from potential buyers or lessees and recommend action to lessors.[1]
- Assist in preparation of documentation necessary for a sale, renewal, or release.

### Finder Services

- Communicate lessor's terms of proposed sale or renewal of equipment leases to potential lessees.
- Where a lessee does not renew the lease or purchase the equipment at the end of the lease term, obtain bids from potential buyers or lessees. Take steps to market the equipment under parameters set by the lessors.

### Lease Servicing[2]

- Arrange for repair or refurbishment of equipment when necessary at the termination of a lease.
- Arrange for equipment return, as appropriate, including dismantling, storage, and shipment.
- Invoice buyers or lessees and collect lease or sale receivables.

You have advised that *** currently carries out all of the above-listed activities for its own lease portfolio. You further indicate that *** will provide these services only for the types of leases which *** could enter into itself. I have concluded that these activities are incidental banking activities within the purview of 12 U.S.C. 24 (Seventh) in which *** may properly engage. Thus, you may proceed with the proposal.

### National Bank Personal Property Leasing Authority

National banks and their operating subsidiaries may engage in personal property leasing activities pursuant to two sources of authority.[3] Under 12 U.S.C. 24 (Seventh), national banks may engage in personal property leasing when the lease constitutes the lending of money; that is, when the lease is a net, full-payout lease, where the unguaranteed portion of the estimated residual value of the property at the end of the lease term does not exceed 25 percent. Additionally, with the passage of the Competitive Equality Banking Act of 1987 (CEBA), national banks were given additional authority in the leasing area. *See* 12 U.S.C. 24 (Tenth). Among other things, property leased pursuant to this authority is not subject to any residual value restriction (CEBA lease). CEBA leases are not considered the equivalent of loans and may not exceed 10 percent of bank assets.

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[1] *** will not make any evaluation of the creditworthiness of any potential buyer or lessee, and the decision to sell or release will be at the sole discretion of the lessor.

[2] You have indicated that these lease servicing functions will be provided only for leases which are the functional equivalent of loans.

[3] Twelve CFR 5.34 permits national banks to conduct activities which are part of or incidental to the business of banking through an operating subsidiary.

In response to the passage of CEBA, the OCC developed a new regulation to deal with personal property leasing which recently was published. Lease Financing Transactions, 12 CFR 23. *See* 56 Fed. Reg. 28,314 (1991). This regulation eliminated OCC's interpretive ruling on leasing, 12 CFR 7.3400, as a separate provision and made it a subpart of Part 23. Provisions relating to the authority granted by CEBA are incorporated into the new regulation.

***'s Proposal

***'s proposal essentially concerns activities which may be categorized as incidental to lease financing. With regard to such activities by national banks, the preamble to Part 23 makes it clear that OCC precedents allowing national banks and their subsidiaries to engage in various activities found to be incidental to banking may be relied upon to support similar activities in the conduct of leasing activities. 56 Fed. Reg. at 28,315. Thus, OCC precedents relating to financial advisory services to customers may be relied upon to support the provision of lease consultation to third party lessors. *See e.g.*, Interpretive Letter No. 137 [Transfer Binder 1981-82] Fed. Banking L. Rep. (CCH) ¶ 85,218, December 27, 1979, (advisory services to financial institutions and customers); Interpretive Letter No. 298 [Transfer Binder 1985-87] Fed. Banking L. Rep. (CCH) ¶ 85,468 (investment advice); Interpretive Letter No. 367 [Transfer Binder 1985-87] Fed. Banking L. Rep. (CCH) ¶ 85,537, August 19, 1986, (financial planning for customers). And, as specifically mentioned in the preamble to Part 23, finder services may be provided pursuant to Interpretive Ruling 7.7200, 12 CFR 7.7200. *See* Interpretive Letter No. 238, [Transfer Binder 1981-82] Fed. Banking L. Rep. (CCH) ¶ 85,402, February 9, 1982.

Incidental leasing services, encompassing lease servicing and finder services, for third party banks previously have been considered by the OCC. Letter from Peter Liebesman, June 15, 1981, (unpublished) (1981 letter). That letter responded to a national bank's proposal to develop and sell the following leasing services to other banks through an operating subsidiary: keeping records (collection, posting, and accounting), collecting accounts, repossessing leased items, disposing of equipment after repossession or termination of the lease, providing full time sales representatives for a continuous flow of lease applications, preparing lease documents, preparing financial packages sufficient to satisfy committee review, and issuing purchase orders for approved leases." 1981 letter at p.1. The letter concluded that the type of activities described were incidental to leasing activities which national banks could conduct for themselves and could be conducted for other banks under a correspondent relationship.

The 1981 letter's analysis does not totally support your proposal because ***'s services could be provided to entities other than financial institutions. You have suggested that OCC Interpretive Ruling 7.7379, 12 CFR 7.7379, would support ***'s proposal. I.R. 7.7379 states that "[a] national bank may act as agent in warehousing and servicing of mortgage and other loans, either directly or through a subsidiary corporation." Since it is ***'s intention to offer lease servicing only for leases which are the functional equivalent of loans, you reason that *** should be able to provide these services to third parties.

I agree with your position. Under I.R. 7.7379, the OCC has permitted national banks to service loans for lenders which are not financial institutions. Such lenders have included insurance companies, letter from James J. Saxon, Comptroller of the Currency, September 27, 1965, (unpublished), letter from Leslie Linville, Senior Attorney, Midwestern District, May 9, 1986, (unpublished); educational institutions, letter from Thomas G. DeShazo, Deputy Comptroller of the Currency, February 27, 1974, (unpublished); and doctors, hospitals and other service providers, letter from Peter Liebesman, Assistant Director, LASD, August 27, 1985, (unpublished). Because you will provide lease servicing only for leases which are the equivalent of loans, *see M & M Leasing Corporation v. Seattle First National Bank*, 563 F.2d 1377 (9th Cir. 1977), *cert. denied*, 436 U.S. 936 (1978), I.R. 7.7379 supports this activity.

Accordingly, the OCC concurs that ***'s proposal is legally permissible, and *** therefore, may expand its activities as set forth above.

Frank Maguire
Acting Senior Deputy Comptroller for Corporate Policy and Economic Analysis

* * *

## 568 — November 26, 1991

This responds to your letter to Mr. Tommy R. Tucker in which you request clarification of the application of Banking Circular 225 (BC-225) to real estate related financial transactions below $50,000. Specifically, you have asked whether real estate evaluations used by

First National Bank of Anchorage (the bank) for real estate related financial transactions with a value of $50,000 or less must address all of the items identified in BC-225. Your letter has been referred to me for a response.

The appraisal regulation published by the Office of the Comptroller of the Currency (OCC), *see* 12 CFR 34.41 *et seq.*, requires appraisals prepared by a certified or licensed appraiser for all federally related transactions. However, appraisals are not required for transactions at or below the threshold level of $50,000 and certain other transactions. For transactions that do not require appraisals by a certified or licensed appraiser under the OCC appraisal regulation, the bank must obtain an evaluation of the real estate collateral as a prudent practice.

Evaluations should be performed by competent persons who are capable of rendering unbiased opinions. An evaluation must be in writing and should contain sufficient documentation to understand the basis for the value reported for the real estate. The depth and detail of analysis in the evaluation should be consistent with the bank's exposure in the transaction. While the individual performing an evaluation need not be a state certified or licensed appraiser, the bank is not precluded from using a certified or licensed appraiser to perform evaluations. Nor is the bank precluded from obtaining appraisals for those transactions which do not require appraisals under OCC rules.

The foregoing staff opinion is based on present interpretations of existing laws and regulations. While this letter provides a current statement of staff's views concerning the application of relevant law, the positions stated in this letter are subject to reconsideration and should not be regarded as precedents binding on the OCC. Although the OCC will not object if the bank performs evaluations in conformance with this letter, this informal staff position does not constitute official action by the Comptroller.

I trust that this responds to your request. The OCC and other financial institutions regulatory agencies intend to provide more comprehensive guidance on several issues related to the appraisal regulations issued under Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Those guidelines are under development and will be made available when they are completed.

Horace G. Sneed
Senior Attorney
Legal Advisory Services Division

* * *

## 569 — November 26, 1991

This responds to your letter concerning the application of the appraisal regulation promulgated by the Office of the Comptroller of the Currency (OCC) in two situations. You have asked whether a national bank can provide the earnest money agreement for a real estate transaction to the appraiser and whether appraisals are required when the collateral for a loan consists of a pledged note secured by real property.

An appraiser is required to provide an impartial estimate of value which is not influenced by pressure to produce a specific value. This requirement is embodied in 12 CFR 34.42(a), which defines an appraisal as a written estimate of value "independently and impartially prepared by a qualified appraiser," and 12 CFR 34.44(a)(10), which provides that all appraisals at a minimum:

> Include in the certification required by the [Uniform Standards of Professional Appraisal Practice] an additional statement that the appraisal assignment was not based on a requested minimum valuation, specific valuation, or the approval of a loan.

An earnest money agreement which describes the property involved in the transaction, recites the down payment to be made, and states the amount to be financed, may be given to the appraiser engaged for that transaction. Simply having access to documents that contain financial information about the transaction does not prevent an appraiser from producing an appraisal as defined in section 34.42(a) nor from meeting the requirements of 34.44(a)(10). However, a course of dealing through which it was understood that an appraiser must return a specific value, such as a value above the amount to be financed, may be a violation of the regulation.

Your second question concerns the need for appraisals when a national bank takes a note secured by real estate as collateral for a loan. In particular, you ask whether appraisals must be obtained for notes pledged as security for a mortgage warehousing line where there is rapid turnover of the notes securing the bank's loan as mortgages are packaged and sold into the secondary market.

The OCC appraisal regulation requires national banks to use licensed and certified appraisers for all federally related transactions. Moreover, those appraisals must conform to the standards set forth in the OCC appraisal regulation. For national banks, a federally related transaction is defined as any real estate-related financial transaction that requires an appraisal and is regulated by the OCC *See* 12 U S C 3350(4), 12 CFR 34 42(e) In turn, a real estate-related financial transaction is defined to include any transaction involving the use of real property or interests in real property as security for a loan *See* 12 U S C 3350(5), 12 CFR 34 43(g).

When a national bank takes a note secured by real estate as collateral for a loan, the extension of credit by the bank is secured by real estate. This is true even though the bank has no right to foreclose on the real estate collateral until there is a default by its borrower as well as the maker of the note secured by the real estate Unless the real estate related financial transaction between the bank and its borrower is one for which an appraisal is not required under the appraisal regulation, a loan collateralized by a note secured by real estate is a federally related transaction and requires an appraisal.

The foregoing staff opinions are based on present interpretations of existing laws and regulations. While this letter provides a current statement of staff's views concerning the application of relevant law, the positions stated in this letter are subject to reconsideration and should not be regarded as precedents binding on the OCC. Although the OCC will not object if your bank obtains appraisals in conformance with this letter, this informal staff position does not constitute official action by the Comptroller.

I trust that this responds to your request. The OCC and other financial institutions regulatory agencies intend to provide more comprehensive guidance on several issues related to the appraisal regulations issued under Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Those guidelines are under development and will be made available when they are completed

Horace G Sneed
Senior Attorney
Legal Advisory Services Division

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## 570 — November 26, 1991

This is in response to your letter to Mr Tommy R. Tucker concerning the application of the appraisal regulation published by the Office of the Comptroller of the Currency (OCC) to certain construction loans Specifically, you have asked if the OCC would pose an objection to American National Bank of Florida (bank) utilizing appraisals ordered by the permanent mortgage lender for certain construction loans Your letter has been referred to me for a response.

The OCC appraisal regulation, 12 CFR 34.41 et seq , requires national banks to obtain appraisals in connection with all federally related transactions. However, the regulation provides that a national bank may accept an appraisal prepared by another institution subject to Title XI of the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989, (FIRREA), 12 U.S.C. 3310, 3331 *et seq.*, provided: the bank has appraisal review procedures in place, reviews the appraisal and finds it acceptable, and documents that review. *See* 12 CFR 34.45(b). Accordingly, in making a construction loan on a project, the bank may use appraisals of the same project which have been ordered by the permanent mortgage lender if that lender is an institution which is subject to Title XI of FIRREA, and the requirements of 12 CFR 34.45(b) have been met. Among other things, that review should demonstrate to the bank that the appraisal meets all the requirements of the appraisal regulation and that it accurately reflects the value of the real estate collateral for purposes of construction lending.

This staff opinion is based on present interpretations of existing laws and regulations. While this letter provides a current statement of staff's views concerning the application of relevant law, the position stated in this letter is subject to reconsideration and should not be regarded as precedent binding on the OCC. Although the OCC will not object if the bank obtains appraisals in conformance with this letter, this informal staff position does not constitute official action by the Comptroller.

I trust that this responds to your request. The OCC and other financial institutions regulatory agencies intend to provide more comprehensive guidance on several issues related to the appraisal regulations issued under Title XI of FIRREA. Those guidelines are under development and will be made available when they are completed.

Horace G. Sneed
Senior Attorney
Legal Advisory Services Division

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## 571 — November 26, 1991

This is in reply to your letter to Mr Tommy R. Tucker concerning the real estate appraisal regulation published by the Office of the Comptroller of the Currency (OCC) Your letter has been referred to me for a response Answers to your questions are set forth below

Where can a copy of the Uniform Standards of Professional Appraisal Practice (USPAP) be obtained?

The portions of the USPAP applicable to federally related transactions were originally published in the Federal Register on December 31, 1990, at 55 Fed. Reg. 53, 610. These provisions were codified as Appendix A to 12 CFR Part 34, Subpart C. Both documents are available from many public libraries. The complete text of the USPAP is available through the Appraisal Foundation, 1029 Vermont Ave., NW, Suite 900, Washington, D.C. 20005.

You also requested a copy of the OCC's Guidelines for Real Estate Appraisal Policies and Review Procedures. The OCC is in the process of revising that document to reflect changes arising from the publication of the appraisal regulation.

What are the reappraisal requirements, if any, in the new regulation?

A valid appraisal in accordance with the OCC appraisal regulation is required when a national bank enters into a federally related transaction. Real estate related financial transactions which do not require appraisals, and therefore are not federally related transactions, are listed in 12 CFR 34.43 of the appraisal regulation. While the regulation requires an up-to-date appraisal when a bank enters into a federally related transaction, it does not require reappraisals unless the bank enters into another federally related transaction, such as a refinancing, and the original appraisal is no longer valid. Where the bank is not entering into a new federally related transaction, the appropriateness and timing of reappraisals is generally a policy issue to be determined by the individual bank. As with all policies that affect the safety and soundness of the institution, the bank's reappraisal policy is subject to regulatory review.

In connection with your question on reappraisals, your letter referred to Interpretive Ruling 7.3025, 12 CFR 7.3025. This ruling relates to other real estate owned (OREO). It requires national banks to substantiate the value of OREO through a current appraisal upon the transfer of the property to other real estate owned. Further, the interpretive ruling requires the bank to substantiate the value of its OREO holdings on an annual basis by obtaining from an independent, qualified appraiser a current appraisal, or a certification in letter form stating that the value of the real estate has not declined since the prior appraisal. Neither the appraisal regulation, nor any other guidance issued by the OCC requires a national bank to annually reappraise the collateral for all of its real estate loans.

The foregoing staff comments are based on current interpretations of existing laws and regulations. While this letter provides a current statement of staff's views concerning the application of relevant law, the positions stated in this letter are subject to reconsideration and should not be regarded as precedents binding on the OCC. In addition, while the OCC will not object if national banks obtain appraisals under the OCC appraisal regulation and Interpretive Ruling 7.3025 in conformance with this letter, this informal staff position does not constitute official action by the Comptroller.

I trust that this letter responds to your request. The OCC and other financial institutions regulatory agencies intend to provide more comprehensive guidance on several issues related to the appraisal regulations issued under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Those guidelines are under development and will be made available as soon as they are completed.

Horace G. Sneed
Senior Attorney
Legal Advisory Services Division

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## 572 — January 15, 1992

This is in response to Commissioner Jeff Connor's letter requesting comments from the Office of the Comptroller of the Currency (OCC), in its capacity as primary regulator of national banks, regarding a proposed regulation. Based upon my review of the proposal, its underlying statute and the legal precedents discussed below, it is my opinion that the statute and regulation conflict with federal law, and are therefore preempted. Consequently, for the reasons set forth more fully below, national banks doing business in New Jersey are not required to comply with any of the provisions of the New Jersey Consumer Checking Act (NJCCA) or its implementing regulations. However, the OCC does not object to such bank's voluntary compliance with these provisions.

### New Jersey Law

The NJCCA, to be codified at N.J. Stat. Ann. 17:16N-1 *et seq.*, requires every depository institution that maintains regular checking accounts in New Jersey to make available to consumers a New Jersey Consumer Checking Account at all offices of that institution where regular checking accounts are offered or available.[1] NJCCA 3.a.

A depository institution is not required by the NJCCA to offer a New Jersey Consumer Checking Account "at a cost which is below its actual cost to provide such account." *Id.* Further, "[t]he calculation made by a depository institution of the actual cost of providing a New Jersey Consumer Checking Account shall be determinative in the absence of mathematical error or a request from the Commissioner for other data and information deemed relevant or appropriate for evaluating the actual cost of providing a New Jersey Consumer Checking Account." *Id*[2] The proposed regulation sets forth a procedure for closing or refusing to open a New Jersey Consumer Checking Account if a depository institution's fees and revenues derived from the account are less than its costs. Proposed N.J. Admin. Code 3:1-19.4(b) through (d). In particular, the proposal provides that a depository institution seeking to discontinue offering a New Jersey Consumer Checking Account based on cost must notify the New Jersey Department of Banking 30 days in advance, and "shall submit with such notice the data supporting its determination regarding cost." Proposed N.J. Admin. Code 3:1-19.4(c). Further, the data provided must support "a conclusion by the Commissioner [of Banking] that the depository institution would lose money on any account which would satisfy the requirements" of the NJCCA. Proposed N.J. Admin. Code 3:1-19.4(d).

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[1] Depository institution is defined to include national banks "doing business" in New Jersey. NJCCA 2.

The proposed regulation is based upon section 3.c. of the NJCCA, and sets forth the following features of a New Jersey Consumer Checking Account:

> 1. the initial deposit amount necessary to open the account may be no more than $100.00;[3]
>
> 2. the minimum balance necessary to maintain the account may be no more than $25.00;
>
> 3. the customer must be able to make at least eight free withdrawals from the account by check within a periodic cycle[4] (for each transaction in excess of this number, the proposed regulation imposes a maximum charge of $0.50);
>
> 4. the customer must be able to make an unlimited number of free deposits and withdrawals using deposit and withdrawal slips;
>
> 5. the amount that may be charged per periodic cycle for maintaining the account may not exceed $3.00 per periodic cycle in which the $25.00 minimum balance is maintained; a maximum of $5.00 may be charged to maintain an account where the minimum balance falls below $25.00.[5]

Proposed N.J. Admin. Code 3:1-19.2 (a). The Commissioner may approve an account which does not meet all of the requirements prescribed in the regulation, and deem it to be a qualifying New Jersey Consumer Checking Account, if a depository institution submits the account to the Commissioner for approval, and provides him or her with information which details the features and terms of the account. NJCCA 3.d.; *see also* Proposed N.J. Admin. Code 3:1-19.3.

The NJCCA further provides, in general, that a depository institution may not discriminate against the holder of a New Jersey Consumer Checking Account by furnishing less mail or electronic banking services, or assessing higher fees, compared to the services furnished to or fees assessed against regular checking account holders. NJCCA 3.f.[6] Except as otherwise provided in the NJCCA, fees are prohibited for deposits of funds, account maintenance, closing or inactivity, and balance inquiries. *Id.* In addition, the institution must provide a periodic account statement to every holder of a New Jersey Consumer Checking Account. NJCCA 3.g.

Section 3.h. of the NJCCA and 3:1-19.4(a) of the proposed regulation set forth the limited conditions (including fraud and a record of unpaid checks) under which a depository institution may close or refuse to open a New Jersey Consumer Checking Account for a customer.

The NJCCA also prohibits a depository institution from requiring that a holder of a New Jersey Consumer

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[2] The proposed regulation states that in computing the cost of the [illegible] must deduct the investment value of [illegible] account. Proposed N.J. Admin. Code 3:1-[illegible]

[3] [illegible] of the proposed regulation may be adjusted [illegible] Consumer Price Index.

[4] [illegible] longer or shorter than 30 days, [illegible] and withdrawals must be [illegible]

[5] If the periodic cycle is substantially longer or shorter than 30 days, the maximum charge must be adjusted accordingly.

[6] *See also* NJCCA 3.b ("An applicant for a New Jersey Consumer Checking Account shall provide the depository institution with the same information an applicant for a regular checking account is required to provide at that depository institution."), 3.i. (Prohibiting a depository institution from imposing any requirement with respect to a New Jersey Consumer Checking Account that would tend to discriminate against low-income consumers in opening, maintaining or using such accounts) and 4 (Except as otherwise provided in the NJCCA, a depository institution must provide all of its products and services to a customer who holds a New Jersey Consumer Checking Account on the same basis that it offers those products and services to customers of regular checking accounts). The proposed regulation does not contain detailed provisions in these areas. Rather it states that a New Jersey Consumer Checking Account agreement may not authorize a charge to a customer for printing checks which exceeds the check printing charge assessed against regular checking customers. Proposed N.J. Admin. Code 3:1-19.2(a)(8). In addition, the depository institution may charge fees for automated teller machine usage and banking services not specified in the regulation to the same degree that it charges regular checking account customers for such usage and services. Proposed N.J. Admin. Code 3:1-19.2(a)(9).

Checking Account have another account or a credit card at any depository institution, as a condition to opening or maintaining the New Jersey Consumer Checking Account. NJCCA 3.i.

Section 5 of the NJCCA prescribes requirements for providing public notice of the availability and features of a depository institution's New Jersey Consumer Checking Account. The proposed regulation expands upon the statutory language, and requires that the depository institution provide information about "New Jersey Consumer Checking Accounts, checking accounts generally, and related financial services." Proposed N.J. Admin. Code 3:1-19.5.

Section 6 provides a private right of action for violations of the NJCCA, including injunctive relief, and monetary damages.

Finally, section 7 of the NJCCA gives the New Jersey Commissioner of Banking administrative enforcement powers over institutions which fail to comply with the NJCCA or any of the Commissioner's regulations or orders thereunder. These powers include the authority to issue a cease and desist order and/or the payment of a civil penalty.[7]

### Federal Preemption

#### In general

The case of *Davis v. Elmira Savings Bank*, 161 U.S. 275 (1895), provides a succinct description of the interrelationship between federal and state laws as applied to the functioning of national banks. As stated by Justice White in *Davis*:

> National banks are instrumentalities of the Federal government, created for a public purpose, and as such necessarily subject to the paramount authority of the United States. It follows that an attempt by a state to define their duties or control the conduct of their affairs is absolutely void, wherever such exercise of authority expressly conflicts with the laws of the United States, and either frustrates the purpose of the national legislation, or impairs the efficiency of these agencies of the Federal government to discharge the duties for the performance of which they were created. These principles are axiomatic, and are sanctioned by the repeated adjudications of this court.

161 U.S. at 283; *accord McClellan v. Chipman*, 164 U.S. 347 (1896). *See also Franklin National Bank v. New York*, 347 U.S. 373, 375 (1954). Case law has established that Federal preemption of state law may occur in one of three ways.[8] *See Fidelity Federal Savings & Loan Assn. v. De la Cuesta*, 458 U.S. 141, 152-154 (1982). First, Congress may explicitly state in a Federal statute its intent to preempt state law in a particular field. *See Jones v. Rath Packing Co.*, 430 U.S. 519, 525 (1977). Second, a statute may implicitly preempt state law based on Congress's intent to create a law in which the Federal interest is so dominant that the Federal system will be assumed to preclude enforcement of state laws on the same subject. *See Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947). Finally, even where Congress has not completely displaced state law in a given area, state law is nullified to the extent that it actually conflicts with Federal law. *See Fidelity, supra*, 458 U.S. at 153. The United States Supreme Court has previously concluded that whether a state law conflicts with a federal law rests on whether the state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941).

In a long line of interpretive letters dealing with a wide range of topics, the OCC has applied the federal preemption doctrine established by the case law cited above. *See, e.g.*, OCC Interpretive Letter No. 564 (October 29, 1991), (Idaho restrictions on Saturday operations); OCC Interpretive Letter No. 475 (March 22, 1989), *reprinted in* [1989-1990 Transfer Binder] licensing Fed. Banking L. Rep. (CCH) ¶ 83,012 (Tennessee insurance provisions); OCC Interpretive Letter No. 318 (November 26, 1984), *reprinted in* [1985-1987 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,488 (state law restrictions on alternative mortgage transactions); OCC Interpretive Letter No. 122 (August 1, 1979), *reprinted in* [1981-1982 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,203 (Tennessee provision requiring registration and examination of national banks acting as "municipal finance consultants"); OCC Interpretive Letter No. 52 (July 25, 1978), *reprinted in* [1978-1979 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,127 (Kansas law restricting activities which may be conducted at a branch).

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[7] The penalty is enforceable pursuant to the provisions of N.J. Stat. Ann. 2A:58 *et seq.* (West 1987), which provide for summary proceedings for collection of penalties, and execution of money judgments.

[8] The Supreme Court has phrased these tests as follows:

> [S]tate law can be pre-empted in either of two general ways. If Congress evidences an intent to occupy a given field, any state law falling within that field is pre-empted. . . . If Congress has not entirely displaced state regulation over the matter in question, state law is still pre-empted to the extent it actually conflicts with federal law, that is, when it is impossible to comply with both state and federal law, . . . or where the state law stands as an obstacle to the accomplishment of the full purposes and objectives of Congress.

*Silkwood v. Kerr-McGee Corp.*, 464 U.S. 238, 248 (1984) (citations omitted); *see also Rice, supra*, 331 U.S. at 230.

As the analysis below demonstrates, the NJCCA (and therefore its proposed implementing regulation) are preempted based on several aspects of federal law.[9]

National Banks' Authority to Receive Deposits

Twelve U.S.C. 24 (Seventh) provides that a national bank may exercise "all such incidental powers as shall be necessary to carry on the business of banking," by, *inter alia*, "receiving deposits." Thus, to the extent a state law purports to regulate the manner in which a national bank receives deposits, whether by prescribing the type of deposit services that a national bank must offer, or mandating a price structure for deposit services, it is the OCC's position that federal law is controlling, and that a national bank is not required to follow state law.

The "receiving deposits" language of section 24 (Seventh) has been given broad preemptive effect by the United States Supreme Court. In the *Franklin* case, *supra*, the Court held that a New York law which purported to prohibit a national bank's use of the word "saving" or "savings" in its advertising or financial or banking business was preempted by the "receiving deposits" language of 24 (Seventh), and certain provisions of the Federal Reserve Act and its implementing regulations.[10] In reaching this conclusion, the Court reasoned that the New York Statute's advertising restriction improperly inhibited national banks' ability to successfully engage in an activity (*i.e.*, receiving deposits) which federal law had authorized them to conduct.[11] Further, the Court stated that there was "no indication that Congress intended to make this phase of national banking subject to local restrictions, as it has done by express language in other instances." 347 U.S. at 378 (footnote omitted).

In *First National Bank of San Jose v. California*, 262 U.S. 366 (1923), the Supreme Court again used the "receiving deposits" language of section 24 (Seventh) to preempt a state law. In *San Jose*, a California statute provided that, in general, bank accounts that had been inactive for more than 20 years would escheat to the state. In concluding that this statute could not be applied against accounts in national banks, the Court stated:

> [Twelve U.S.C. 24 (Seventh)] confers upon national banks power to receive deposits, which necessarily implies the right to accept loans of money, promising to repay upon demand to lender or his order. These banks are instrumentalities of the Federal Government. Their contracts and dealings are subject to the operation of general and undiscriminating state laws which do not conflict with the letter or the general object and purposes of congressional legislation. But any attempt by a State to define their duties or control the conduct of their affairs is void whenever it conflicts with the laws of the United States or frustrates the purposes of the national legislation or impairs the efficiency of the bank to discharge the duties for which it was created.
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> * * *
>
> Plainly, no State may prohibit national banks from accepting deposits or directly impair their efficiency in that regard.
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> * * *
>
> [The results of the California statute] seem incompatible with the purpose to establish a system of governmental agencies specifically empowered and expected freely to accept deposits from customers irrespective of domicile with the commonly consequent duties and liabilities.

262 U.S. at 368-370 (citations omitted).

Based on the *Franklin* and *San Jose* cases, it is clear that national banks' deposit-taking function, and the incidental powers associated with it, have been broadly construed by the Supreme Court. The fee limitations and other account requirements set forth in the NJCCA and the proposed regulation impair the competitive capacity of national banks doing business in New Jersey by restricting their ability to receive deposits and to exercise the powers incidental to the business of receiving deposits. Thus, pursuant to the general principles of preemption established by Supreme Court case law, the New Jersey statute and regulation are implicitly preempted (and rendered void and inapplicable to national banks) because they impair the national banks' "efficiency . . . to discharge the duties for the performance of which they were created." *Davis*, 161 U.S. at 283. Further, they create "an obstacle to the accomplishment of the full purposes and objectives of Congress . . . ." *Silkwood*, 464 U.S. at 248.

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[9] "Whatever force and effect a rule or regulation has is derived entirely from the statute under which it is enacted." 2 Am. Jur. 2d *Administrative Law* 294 (1962) (footnote omitted). "A regulation is, of course, [illegible] the statute under which it is issued [illegible] invalid." 2 Am. Jur. 2d *Administrative Law* 297 (1962) (footnote omitted).

[10] In addition, the Court noted that the terms "savings deposits" and "time deposits" were used in [illegible] 371 and 461, and in 12 CFR [illegible].

[11] "We cannot find [illegible] incidental powers granted to national banks [illegible] so narrowly as to preclude the use of [illegible]." 347 U.S. at [illegible].

You should also be aware that the OCC has issued an Interpretive Ruling, based on the deposit-taking authority of section 24 (Seventh), which addresses deposit account service charges. Interpretive Ruling 7.8000 sets forth general guidelines and factors for national banks to consider when they levy charges against customers. *See* 12 CFR 7.8000(a) and (b) (1991). In particular, the Interpretive Ruling states:

> A national bank may establish any deposit account service charge pursuant to paragraphs (a) and (b) of this section notwithstanding any state laws which prohibit the charge assessed or limit or restrict the amount of that charge. Such state laws are preempted by the comprehensive federal statutory scheme governing the deposit-taking function of national banks.

12 CFR 7.8000(c).[12]

The Supreme Courts of Oregon and California have opined that general contract law principles established by state law, including unconscionability and good faith, apply to national bank fees levied for checks drawn against insufficient funds, and that state common and statutory law involving these principles are not preempted by section 24 (Seventh). *See Best v. United States National Bank of Oregon*, 303 Or. 557, 739 P.2d 554 (1987); *Perdue v. Crocker National Bank*, 38 Cal. 3d 913, 216 Cal. Rptr, 345, 702 P.2d 503 (1985) *cert. dismissed*, 475 U.S. 1001 (1986).[13] However, these cases are clearly distinguishable from the situation at hand. First, these cases involved the application of general contract law principles to national banks. In contrast, the NJCCA and its proposed implementing regulation are very specific, and *require* that national banks doing business in New Jersey enter into a particular type of "contract," *i.e.*, a New Jersey Consumer Checking Account. Further, the New Jersey legislature and Commissioner of Banking purport to *mandate the type and amount of fees* that may be assessed by national banks.[14] Second, these cases preceded the enactment of the Bank Enterprise Act, discussed at length below, and were limited to an analysis of the OCC's Interpretive Ruling 12 U.S.C. 24 (Seventh) and certain other federal statutes governing the deposit-taking function of national banks.[15] In addition, the California and Oregon courts were not considering a statute which involved administrative enforcement and licensing features similar to those of the NJCCA. As noted below, these features are particularly problematic as applied to national banks.

Bank Enterprise Act

The Bank Enterprise Act is set forth in Title II, Subtitle C of the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. No. 102-242, 105 Stat. 2236 (FDICIA). The purpose of the Bank Enterprise Act is to provide federally insured depository institutions (including national banks) with an incentive to offer lifeline accounts, and to make loans and provide other financial assistance in distressed communities.[16] This incentive is provided through a reduced federal deposit insurance rate for deposits attributable to lifeline accounts, and deposit insurance assessment credits for qualifying activities (generally, an increase in deposit and/or lending activities) in distressed communities.[17]

In particular, section 232 of FDICIA provides that the FRB and the FDIC shall establish minimum requirements for accounts providing basic transaction services for consumers at insured depository institutions in order for such accounts to qualify as lifeline accounts for purposes of this section and 12 U S C 1817(b)(10). In determining these minimum requirements, the FRB and the FDIC are directed to consider the following factors

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[12] The Interpretive Ruling is discussed above because it constitutes the OCC's interpretation of federal law. The ruling itself does not preempt state law, and does not have the force and effect of law. Rather, the deposit-taking authority of national banks, established by a comprehensive federal statutory scheme, is the basis for preemption of state law in the area of deposit-related fees assessed by national banks. *See* 49 Fed. Reg. 28238 (July 11, 1984).

[13] *But see Jacobs v. Citibank, N.A.*, 92 A.D.2d 786, 459 N.Y.S.2d 781 (1983), *aff'd*, 61 N.Y.2d 869, 462 N.E.2d 1181 (1984) (national banks not subject to fee limitations imposed by New York State Banking Board).

[14] In fact, in discussing whether 1980 and 1982 Federal statutes designed to deregulate the interest rates that banks could pay depositors implicitly preempted state law, the *Perdue* court conceded that "[a]rguably a state law which required that services be offered free, or below cost, would frustrate the congressional intent by preventing the bank from paying market interest to depositors." 702 P.2d at 524. As discussed above, the proposed regulation requires that certain New Jersey Consumer Checking Account services be provided free of charge.

[15] In particular, the courts addressed the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. No. 96-221, 94 Stat. 132, and the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, 96 Stat. 1469. These statutes, *inter alia*, deregulated interest rates that could be paid to depositors, and preempted state usury laws.

[16] The term "lifeline account" is defined in section 232 of FDICIA as a transaction account which meets the minimum requirements established by the Board of Governors of the Federal Reserve System (FRB) and the Federal Deposit Insurance Corporation (FDIC) under that section. The factors to be considered by the FRB and the FDIC in setting these requirements are described in the text above and are similar to the features of a New Jersey Consumer Checking Account. The federal definition of "transaction account," set forth at 12 U.S.C. 461(b)(1)(C), is almost identical to the definition of "account" in section 2 of the NJCCA.

[17] The portion of the average assessment base of any insured depository institution which is attributable to deposits in lifeline accounts will be subject to assessment at the assessment rate of one-half the maximum rate.

> (A) Whether the account is available to provide basic transaction services for individuals who maintain a balance of less than $1,000 or such other amount which the [FRB] may determine to be appropriate.
>
> (B) Whether any service charges or fees to which the account is subject, if any, for routine transactions do not exceed a minimal amount.
>
> (C) Whether any minimum balance or minimum opening requirement to which the account is subject, if any, is not more than a minimal amount.
>
> (D) Whether checks, negotiable orders of withdrawal, or similar instruments for making payments or other transfers to third parties may be drawn on the account.
>
> (E) Whether the depositor is permitted to make more than a minimal number of withdrawals from the account each month by any means described in subparagraph (D) or any other means.
>
> (F) Whether a monthly statement itemizing all transactions for the monthly reporting period is made available to the depositor with respect to such account or a passbook is provided in which all transactions with respect to such account are recorded.
>
> (G) Whether depositors are permitted access to tellers at the institution for conducting transactions with respect to such account.
>
> (H) Whether other account relationships with the institution are required in order to open any such account
>
> (I) Whether individuals are required to meet any prerequisite which discriminates against low-income individuals in order to open such account
>
> (J) Such other factors as the [FRB] may determine to be appropriate

FDICIA section 232(a)(2). It is significant that the factors established by 232 of FDICIA for the purpose of determining whether a transaction account qualifies as a lifeline account eligible for a reduced federal deposit [illegible] are almost identical to those listed in the NJCCA for the purpose of determining whether an account qualifies as a New Jersey Consumer Checking Account Thus, both Congress and the New Jersey legislature appear to have seen the benefit of more widespread use of lifeline accounts. However, the method by which the two legislative bodies sought to achieve this goal is vastly different. Under the federal preemption principles outlined above, the state's method must yield in the face of directly contrary federal treatment of this issue.

It is clear from the precedents cited above that insofar as the NJCCA requires federally insured depository institutions doing business in New Jersey to offer lifeline accounts, it is in actual and direct conflict with a federal statute which expressly makes the offering of such accounts voluntary. *See Silkwood, supra*, 464 U.S. at 249; *see also Rice, supra*, 331 U.S. at 236 ("The test, therefore, is whether the matter on which the State asserts the right to act is in any way regulated by the Federal Act. If it is, the federal scheme prevails though it is a more modest, less pervasive regulatory plan than that of the State.") This position is supported by a letter from the sponsors of the Bank Enterprise Act, Representatives Tom Ridge (R-PA) and Floyd H. Flake (D-NY). Moreover, it is significant that Congress has consistently and historically rejected the concept of requiring the offering of lifeline accounts. *See, e.g.*, S. 415, H.R. 6 and S. 543 (102nd Congress); S. 907 and H.R. 3181 (101st Congress); H.R. 2011 and H.R. 2661 (99th Congress); *see also Prigg v. Pennsylvania*, 41 U.S. (16 Pet.) 539, 618 (1842) (Congress's "silence as to what is does not do is as expressive of what its intention is as the direct provisions made by it.") Rather, when it enacted the Bank Enterprise Act, Congress demonstrated its intent to give depository institutions the option of offering such lifeline accounts, while providing them with an incentive to offer such accounts. In choosing this course of action, Congress recognized that when a depository institution offers a lifeline account, it necessarily forgoes a certain amount of fee income it would otherwise receive. Therefore, Congress chose to balance out this lost income with a reduced federal deposit insurance assessment rate for deposits attributable to lifeline accounts.

The Supreme Court has recognized the supremacy of federal law in situations such as this, where Congress has made an affirmative judgment on the treatment of a particular issue:

> [I]f Congress have a constitutional power to regulate a particular subject, and they do actually regulate it in a given manner, and in a certain form, it cannot be that the State Legislatures have a right to interfere, and, as it were, by way of complement to the legislation of Congress, to pre-

> scribe additional regulations, and what they may deem auxiliary provisions for the same purpose. In such a case, the legislation of Congress, in what it does prescribe, manifestly indicates that it does not intend that there shall be any farther legislation to act upon the subject matter.

*Prigg, supra*, 41 U.S. at 617-618; *accord Easton v. Iowa*, 188 U.S. 220, 237 (1903). *See also Houston v. Moore*, 18 U.S. (5 Wheat.) 1, 21-22 (1820).

### Licensing and Regulation of National Banks

It is the OCC's long-standing position that the provisions of 12 U.S.C. 484 and 1818, as well as general preemption principles, invalidate state licensing, regulatory, and administrative enforcement efforts targeting national banks.[18] *See, e.g.*, OCC Interpretive Letter No. 475, *supra*; letter dated August 11, 1986, from James F. E. Gillespie, Senior Attorney, Legal Advisory Services Division (unpublished); OCC Interpretive Letter No. 122, *supra*. This position has been upheld in a case involving a national bank doing business in New Jersey. *See National State Bank v. Long*, 630 F.2d 981, 988-989 (3d Cir. 1980); *see also Bank of America v. Lima*, 103 F. Supp. 916, 917-918 (D. Mass. 1952).

Several aspects of the NJCCA involve invalid attempts at licensing or otherwise regulating national banks. In particular, the statute and its proposed implementing regulation establish a mechanism for depository institutions to submit nonconforming accounts for approval by the New Jersey Commissioner of Banking. The approval process requires the submission of financial information to the Commissioner. *See* NJCCA 3.a. and d.; Proposed N.J. Admin. Code 3:1-19.3. Similarly, detailed financial information must be submitted, and a depository institution must notify the Commissioner, if it seeks to discontinue offering a New Jersey Consumer Checking Account due to the cost of the account. *See* Proposed N.J. Admin. Code 3:1-19.4(c) and (d). Further, although this issue is not addressed in the proposed regulation, section 3.a of the NJCCA provides that "[t]he calculation made by a depository institution of the actual cost of providing a New Jersey Consumer Checking Account shall be determinative in the absence of mathematical error or a request from the Commissioner for other data and information deemed relevant or appropriate for evaluating the actual cost of providing a New Jersey Consumer Checking Account." Finally, and perhaps most significantly, the cease and desist order and civil money penalty provisions established by section 7 of the NJCCA infringe upon the OCC's authority to institute administrative enforcement proceedings against national banks. *See Long, supra*, 630 F.2d at 988 ("Congress has delegated enforcement of statutes and regulations against national banks to the Comptroller of the Currency.").

### Conclusion

Based on the reasoning set forth above, the NJCCA and the proposed regulation are preempted by federal law. Therefore, it is my opinion that national banks doing business in New Jersey are not required to comply with any of the provisions of the NJCCA or its implementing regulations.[19]

William P. Bowden, Jr.
Chief Counsel

* * *

## 573 — January 28, 1992

This is in response to your December 10, 1991, letter to *** requesting the OCC's views regarding the bank's practice of paying a referral fee to people, including present bank customers, who refer a new demand deposit customer to the bank.

It is my understanding from your letter and our January 22, 1992, telephone conversation that, until recently, the bank had been paying a referral fee (also referred to as a finder's fee) of $25.00 to third parties who referred new demand deposit customers to the bank. OCC examiners criticized this practice as a violation of Regulation Q, 12 CFR 217.1 *et seq* (1991), which prohibits the payment of interest on demand deposits. The bank has ceased paying such fees pending OCC review of the matter.

Section 19 of the Federal Reserve Act, 12 U.S.C 371(a), and Regulation Q thereunder prohibit the direct or indirect payment of interest on demand deposits. "Interest" is defined in Regulation Q as including "any payment to or for the account of any depositor as compensation for the use of funds constituting a deposit." 12 CFR 217.2(d)

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[18] Section 484 provides that "[n]o national bank shall be subject to any visitorial powers except as authorized by Federal law . . . ." Consequently, except as authorized by Federal law, the OCC has exclusive power to conduct examinations of national banks, and "[o]ther officials, including state banking officials, have no authority to conduct examinations or to inspect or require the production of books or records of national banks . . . ." 12 CFR 7.6025(b)(1991). Section 1818 gives the OCC the authority to institute cease and desist proceedings and assess civil money penalties against institutions it regulates.

[19] Although there are alternative legal theories on which a preemption determination may be based, the OCC has found it unnecessary to rely on these theories in concluding that the New Jersey law is preempted.

The Federal Reserve Board (FRB) has considered the question of whether payment of a referral fee for a customer who opens a new demand deposit account constitutes the payment of "interest" within the meaning of Regulation Q. In 1939, the FRB considered a situation in which depositors with checking accounts were offered $1.00 for introducing to the bank in question new depositors who opened similar checking accounts.[1] In Federal Reserve Bulletin No. 559 (1939), the FRB determined that payment of this fee was not a payment of interest to either the referring customer or to the new customer. It was not a payment of interest to the former because the payment was for the service of introducing the new customer, a service which conceivably might be rendered by any person, whether or not a deposit customer. Further, it was not a payment of interest to the new customer because "it does not inure to his benefit but is made to the person who introduces him."

Based upon the facts set out in your letter and the above referenced determination by the FRB (which, according to FRB staff, remains in effect), it is my opinion that the bank's practice of paying a referral fee to third parties who refer new demand deposit customers it not "interest" within the meaning of Regulation Q. As stated by the FRB, it is not interest to the referring party, who may or may not be a bank customer. It is not interest to the new customer because it is not paid to him and does not inure to his benefit.[2]

In closing, it should be emphasized that this letter discusses only the applicability of Regulation Q to the payment of referral fees on demand deposits. It does not discuss any other statutes or regulations which may be applicable to the payment of fees for the referral of time, savings, or demand deposit customers, such as 12 U.S.C. 1831f, which prohibits certain insured depository institutions from accepting funds obtained directly or indirectly by or through deposit brokers.

Sue E. Auerbach
Senior Attorney
Legal Advisory Services Division

* * *

574 — February 6, 1992

This responds to your letter of October 28, 1991, addressed to ***, on behalf of ***, the agent for a syndicate of banks (the banks) interested in refinancing certain credit facilities currently in place with a transportation company (the company). Because the resulting credit agreement would be collateralized in part by certain real estate interests of the borrower, your letter requests interpretive guidance regarding the applicability to the transaction of both Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), 12 U.S.C. 3310, 3331-3351, and the real estate appraisal regulation published by the OCC at 12 CFR 34.41 *et seq.* (appraisal regulation).

The Proposed Railroad Financing

According to your correspondence, the banks wish to create a single credit facility (the proposed facility) to replace two credit facilities currently in place with the company. Through the proposed facility, the banks will extend loans to the company and issue standby letters of credit for the company's account in amounts limited by a borrowing base formula derived from the values of the company's "ancillary assets" and its "core assets," both of which are described below. All loans will be made on a full recourse basis and will be secured by the operating assets of the company, together with the ancillary assets collaterals.

The ancillary assets group includes parcels of improved and unimproved real property owned by the company. Generally, these properties will be sold to provide funds for debt service and no question exists as to the requirement of real estate appraisals for these properties. The core assets group, however, consists of the following: all of the company's rails, ties, track beds, rights of way, bridges, terminal facilities, stations, yards and other structures; any and all real property interests underlying or adjacent to these assets; and other ancillary rights

Outstanding indebtedness under the proposed facility is limited to the sum of (i) 50 percent of the estimated collateral value of the ancillary assets collateral, in addition to (ii) 50 percent of the estimated collateral value of certain potential commuter lines incorporated in the core assets (passenger corridor collateral),[1] plus (iii) not more than 20 percent of the ICC value[2] of the core assets (excluding the value of the passenger corridor collateral).

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[1] Demand deposits, defined as "a deposit that is payable on demand [illegible] 204.2(b)(1)], include checking accounts, certified or cashiers' checks, travelers' checks, and money orders. See 12 CFR 204.2(b)(1).

[2] [illegible] another FRB interpretation [illegible] Federal Reserve Regulatory Service ¶ 2-465.8 [illegible] the payment of premiums and finder's fees [illegible] for the referral of Individual Retirement Accounts [illegible] Regulation Q [illegible] your inquiry.

In order to evaluate the core assets collateral, the banks have engaged *** an independent management consulting firm with expertise in railroad valuation that has performed certain other analyses for the company. Specifically, *** will provide: (i) an evaluation of several major rail lines incorporated in the core assets group in terms of potential income from operations as well as from non-traditional sources; (ii) an evaluation of the reasonableness of using the ICC value as a credit limit; and (iii) a valuation of the passenger corridor collateral based upon comparable sales data.

In your letter, you state that the value of the real estate collateral incorporated in the core assets (the interests in real property underlying tracks, stations, yards etc.) did not influence the bank's decision to extend credit to the company because any sale of such property would be for the purpose of selling portions of the railway as operating concerns. Furthermore, you indicate that sale of individual parcels of real property in the event of default and subsequent foreclosure would not be a viable option for the lenders because necessary ICC approval to abandon rail service on either the major interstate corridors or the short passenger rail lines would probably not be forthcoming. However, the banks wish to obtain liens on this property both to facilitate the sale of entire operating segments of the railway, and to preclude any transfer of the property to another creditor without the banks' consent.

Thus, the banks request assurance that the appraisal regulation does not require that distinct real estate appraisals be prepared for each real property interest in the core assets group. Additionally, due to the fact that *** has performed several other discrete projects under contract for the company, to the extent that the firm may be considered an "appraiser," the banks request assurance that no regulatory action would be taken due to a perceived lack of independence on the part of the firm.

### The Appraisal Regulation

Title XI of FIRREA required the OCC and other bank regulatory agencies to adopt regulations governing real estate appraisals used in connection with federally related transactions, defined as "any real estate-related financial transaction which [the OCC] engages in, contracts for, or regulates. . . and [which] requires the service of an appraiser." 12 U.S.C. 3350(4). A real estate-related financial transaction is defined, *inter alia*, as "any transaction involving. . . the use of real property or interest in property as security for a loan or investment." 12 U.S.C. 3350(5). According to these statutory provisions, a real estate-related financial transaction that does not require the services of an appraiser is not subject to either the requirements of Title XI of FIRREA or to the OCC's appraisal regulation.

The OCC's appraisal regulation identifies a limited number of real estate-related financial transactions for which the services of an appraiser are not required. *See* 12 CFR 34.43(a). In addition, the staff of the OCC has recognized that there are other real estate-related financial transactions, beyond those identified in the appraisal regulation, for which the services of an appraiser are not required. For instance, in one situation where a bank took liens on real property as a means of securing rights to a group of manufacturing plants, the OCC staff took a no objection position with regard to that bank's amendment of an existing credit facility without obtaining appraisals of the underlying real estate.[3] The position taken in No Objection Letter 91-2 was based on the following factors: That the bank took every aspect of the manufacturing plans as security, including equipment, trademarks, patents, etc.; that excluding the real estate collateral, the lender was substantially over-collateralized; and that the real estate collateral represented a small fraction of the value of all collateral. The OCC also recognized the bank's need to take liens on the underlying real estate to enable it to sell the plants as operating concerns in the event of the borrower's default and the bank did not contemplate the sale of the real estate assets taken individually.

### Application of the Appraisal Regulation to the Proposed Railroad Financing

The current proposal is similar in many respects to the proposal in No Objection Letter 91-2. In the current refinancing situation, although the core assets group includes various interest in real estate, the value of these assets is derived from their use in the operation of a rail system. In the event of the company's default or bankruptcy, the banks would have the status of a secured creditor and thus be entitled to take control of and sell the company's operating assets as a going concern. Moreover, because regulatory approval would be necessary to foreclose upon and liquidate an operating rail system, the sale of the individual real estate assets is not contemplated.

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[1] The passenger corridor collateral, a subcategory of the core assets, will consist of certain operating short-line railroad rights of way that are either currently or potentially the subject of negotiations to be sold to regional transit districts or similar authorities for use as commuter or passenger lines.

[2] Based upon information that you have provided, we understand that the ICC value is determined by the company's own auditors using historical cost-basis accounting methods (lower of cost or market value less accumulated depreciation) for which depreciation methods are periodically reviewed by the ICC to incorporate updated information provided by the railroad, that the resulting value is then used by the ICC to determine rates and return on asset ratios as well as to perform other regulatory functions, and that these financial statements prepared for the ICC provide an easily auditable, convenient, reliable means for industry-wide analyses.

[3] OCC No Objection Letter No. 91-2 (June [illegible] 1991) (LEXIS Banking Library OCC Interpretive Letter No. 781)

Based upon relevant statutory provisions, OCC regulations, our supervisory policies, and our analysis of the materials you submitted in connection with your request, the staff of the OCC will not object to the banks taking liens against the real property collateral incorporated in the core assets group without obtaining real estate-specific appraisals.[4] This staff no objection position is issued in accordance with OCC Banking Circular 205 (July 26, 1985) and is based upon the following representations: that the value of these real property interests lies solely in their status as components of operating railway systems and that in the event of the company's default, the banks intend to sell entire segments of the core assets as operating concerns; that sale of the individual property interests is neither contemplated nor feasible due to pervasive regulation of the railroad industry; and that the credit quality of the loan does not depend on the value of the real estate interests in the core assets group as individual assets, but instead as components of an operating railway system.

As a final matter, the adequacy of a national bank's collateral evaluation policies is a matter for supervisory discretion. Accordingly, we have been advised by OCC supervisory staff that the type of evaluations to be provided by *** are reasonable for purposes of the proposed facility. Furthermore, although *** has provided services for the company in the past, such a relationship should not necessarily disqualify the firm from providing evaluations under the current situation. However, documentation of ***'s ability to provide an objective evaluation should be maintained.

Peter Liebesman
Assistant Director
Legal Advisory Services Division

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## No Objection Letters

### 92 — 1 December 23, 1991

This responds to your letter of December 13, 1991, setting forth a transaction which is proposed to be entered into by the Wachovia Bank of Georgia, N.A. Your letter requests that this transaction be reviewed from its legal implications and that the OCC provide a no objection statement with regard to proceeding with this transaction.

#### The Proposed Transactions

To briefly recapitulate the transactions, you advise that both the Wachovia Bank of Georgia, N.A., and the Wachovia Bank of North Carolina, N.A., own participation interests approximating 90 percent in separate pools of credit card loans held by The First National Bank of Atlanta, Wilmington, Delaware. Of the proposed transactions, the first proposes the transfer from the Wachovia Bank of North Carolina, N.A., of its participation interest in a pool of loans to the Wachovia Bank of Georgia, N.A. The second transaction would be an increase of the participation interest in a pool of loans to the Wachovia Bank of Georgia, N.A. The second transaction would be an increase of the participation interest from 90 percent to 95 percent by the Georgia bank in the resulting pool of loans. The third transaction proposes that during the first half of 1992, all of the credit card receivables held by The South Carolina National Bank, Columbia, South Carolina, which became a subsidiary of Wachovia Corporation on December 6, 1991, would be transferred to The First National Bank of Atlanta, Wilmington, Delaware. Subsequently, a 95 percent participation interest in such receivables would be sold to either The South Carolina National Bank or to the Wachovia Bank of Georgia, N.A.

In connection with the request for no objection treatment, you point out that among the applicable statutes is 12 U.S.C. 371c, the provisions of which deal with the transfer of assets among affiliated banks. Further, you provide your opinion that this transfer represents a purchase of an undivided interest in a pool of loans rather than the purchase of individual loans. Accordingly, you view these transactions as a transfer of a single asset rather than a group of individual assets. For this reason, it is your contention that the asset transferred would meet both tests set forth in 12 U.S.C. 371c; namely, the safety and soundness test as well as the test prohibiting the transfer of low-quality assets.

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[4] This staff position is in accord with both the current and traditional treatment of railroad properties. Before the railroads were regulated by the ICC, the common law recognized that the inherent value of railway property derived from the accompanying rights and obligations [illegible] property in conjunction with attached personalty to [illegible] for the public. See *Hammock v. Farmers' Loan and Trust Co.*, 105 U.S. 77, 89 (1882). Furthermore, for public policy reasons, creditors were not permitted to liquidate and sell [illegible]. See *Hammock*, 105 U.S. at 89; *First National* [illegible] 74, 87 (1887). Today, any [illegible] approval granted only if [illegible] 49 CFR 1152 [illegible]

For the reasons set forth below, I agree with your conclusion.

Discussion

There are three separate and distinct transactions proposed.

The first of these contemplates the sale by the Wachovia Bank of North Carolina, N.A., to the Wachovia Bank of Georgia, N.A., of its participation interest in the pool of loans held by the bank in Wilmington, Delaware. It is generally understood that the sale of loan participations by a bank to another bank is a normal banking function authorized pursuant to the provisions of 12 U.S.C. 24. This authority has been generally interpreted to include the purchase and sale of a participation interest in both a single loan and an interest in a pool of loans which has become common over the last two decades. There are long-standing regulatory and judicial confirmations of these positions.

The provisions of 12 U.S.C. 371c have applicability in that they impose a standard of safety and soundness on transactions of this sort as well as prohibit the transfer of a low-quality asset. In this instance, as the transfer is of a participation interest in the pool, safety and soundness concerns are addressed from the ability to calculate income flows, loss experience and yields over a long-standing period of time. Each of these components will provide a basis on which the transaction can be structured to be a safe and sound one for both the selling institution and the buying institution. Moreover, a participation interest in a large pool of loans would clearly not qualify under the definition of "low-quality asset" as set forth in the statute.

Accordingly, assuming that the price at which the transfer is being made is one which results in meeting the safety and soundness test for both institutions, the OCC will pose no objection to the transfer of the participation interest from the Wachovia Bank of North Carolina, N.A., to the Wachovia Bank of Georgia, N.A.

The second transaction contemplates an increase of the participation interest held by the Wachovia Bank of Georgia, N.A., in the two pools of loans from 90 percent to 95 percent. This is clearly a permissible transaction under the provisions of 12 U.S.C. 24, which placed no limitation on the amount of a participation interest in a loan purchased by any national bank The provisions of 12 U.S.C. 371c are also applicable to this transaction and such purchase would have to be on grounds which are safe and sound. The comments regarding such safety and soundness test set forth in the paragraph above would be applicable to this transaction as well.

Accordingly, there is no OCC objection to the increase in the size of the participation interest form 90 percent to 95 percent by the Wachovia Bank of Georgia, N.A.

The third transaction proposed is the sale by The South Carolina National Bank of its credit card portfolio to The First National Bank of Atlanta, Wilmington, Delaware, in its entirety. The OCC has previously approved transfers of credit card portfolios in bulk, subject to certain conditions. These conditions are that the transaction has a bona fide business reason for the transfer, such as the centralization of management of all of a particular line of business in one unit; is a nonrecurring transaction; and meets the safety and soundness test set forth in the provisions of 12 U.S.C. 371c. (*See* OCC No Objection Letter dated November 19, 1985.) In meeting the safety and soundness test for the transfers of bulk portfolios of loans, the OCC has taken the position that the reserve for loan losses, which is transferred along with the portfolio, be of sufficient magnitude to compensate for those individual components of the portfolio which fall under the definition of "low-quality assets" for purposes of the statutory test. Because of the statistical nature in the granting of credit card applications, and because of the provisions set forth in the Instructions for Reports of Condition and Income, which are filed quarterly and require adjustments based on delinquency ratios, it is relatively easy to construct a transfer price which contains an adequate reserve for loan losses to compensate for the individual components which do not meet the low-quality asset test.

Accordingly, assuming that a price can be readily obtained which provides a basis of fairness to both the selling institution and the purchasing institution, the OCC will have no objection to the proposed transfer of the credit card portfolio from The South Carolina National Bank to The First National Bank of Atlanta, Wilmington, Delaware

The remaining transaction contemplates the sale of a participation interest in this particular portfolio of loans to The South Carolina National Bank or the Wachovia Bank of Georgia, N A For the reasons set forth in paragraphs one and two, and assuming that the purchase price of the participation interest meets the test of safety and soundness, the OCC will have no objection to the proposed purchase

For the reasons set forth above, no objection will be raised to the Wachovia Bank of Georgia, N.A., proceeding with these transactions as described. This conclusion is based upon the facts presented in the bank's letter of December 13, 1991. Please note that any different facts or conditions might require a different conclusion. In addition, these views are based on current law and regulation, are subject to reconsideration, and should not be regarded as a precedent binding on the Office of the Comptroller of the Currency.

H. Gary Pannell
District Counsel

ATTACHMENT A

December 13, 1991

H. Gary Pannell, Esq.
District Counsel
Comptroller of the Currency
Southeastern District
Marquis One Tower
Suite 600
245 Peachtree Center Avenue, NE
Atlanta, GA 30303

Dear Mr. Pannell:

In accordance with Banking Circular 205 dated July 26, 1985, Wachovia Bank of Georgia, N.A. (Wachovia-Georgia) requests a no objection position with respect to the proposed transactions described in this letter.
Wachovia Corporation owns 100 percent of the common stock of Wachovia Corporation of Georgia (Georgia Corporation) and Wachovia Corporation of North Carolina (North Carolina Corporation). In turn, Georgia Corporation owns 100 percent of the stock of Wachovia-Georgia, headquartered in Atlanta, Georgia, and 100 percent of the common stock of The First National Bank of Atlanta (f/k/a First Atlanta Bank, N.A.) (First Atlanta-Delaware), headquartered in Wilmington, Delaware. North Carolina Corporation owns 100 percent of the common stock of Wachovia Bank of North Carolina, N.A. (Wachovia-North Carolina).

Wachovia-Georgia and Wachovia-North Carolina are both full service national banks, with approximately $8.5 billion and $16.8 billion in assets, respectively. First Atlanta-Delaware was chartered by the Office of the Comptroller of the Currency (OCC) and commenced business in 1986. First Atlanta-Delaware operates primarily as a credit card bank pursuant to Delaware law and has assets of approximately $171 million.

First Atlanta-Delaware has granted a 90 percent participation (totaling approximately $1.067 billion) in certain of its credit card receivables to Wachovia-Georgia (the Georgia Participation) and a 90 percent participation (totaling approximately $131.6 million) of certain other credit card receivables to Wachovia-North Carolina (the North Carolina Participation). These participations were granted in 1986 and 1988, respectively.

Recently, on December 6, 1991, Wachovia Corporation also acquired 100 percent of the stock of South Carolina National Corporation which owns 100 percent of the stock of South Carolina National Bank, Columbia, South Carolina (SCNB). SCNB has total assets of approximately $6.5 billion and presently holds approximately $251.2 million in credit card receivables (the South Carolina Receivables).

Primarily for tax reasons, but also for financial and managerial purposes, it is proposed that additional participation interests in the credit card receivables be transferred to Wachovia-Georgia. Specifically, the following transactions are proposed:

- All of the North Carolina Participation will be transferred and assigned to Wachovia-Georgia.
- The percentage interest in the North Carolina Participation then held by Wachovia-Georgia will be increased from 90 percent to 95 percent.
- The Georgia Participation will be increased from 90 percent to 95 percent.
- We also propose that in the first half of 1992, all of the South Carolina Receivables will be assigned and transferred to First Atlanta-Delaware. Simultaneously with that transfer, a 95 percent participation in such receivables will be granted either to SCNB or to Wachovia-Georgia.

All of the foregoing assignments will be made at book value along with any applicable loss reserves.

The specific provision of the law concerning which we request a no objection position is 12 USC 731c(a)(3) which prohibits the purchase of "low quality assets" defined in 12 USC 371c(b)(10)(C) as assets on which principal or interest payments are more than 30 days past due. It is our position that the transfers in question do not violate that section since the participation interests in the various credit card portfolios do not constitute "low quality assets." Wachovia-Georgia is not purchasing individual loans but rather is purchasing participation percentage interests in portfolios which have delinquency characteristics substantially better than industry averages. Further, the credit card receivable in each of the portfolios were created (or purchased from unrelated third parties) strictly in accordance with the strict underwriting and credit evaluation systems jointly established by First Atlanta-Delaware, Wachovia-Georgia and Wachovia-North Carolina.

We call to your attention that the requested transactions are not recurring but rather together constitute an isolated situation.

In conclusion, we request a no objection position with respect to the above described transactions. We feel that the transactions taken as a whole will benefit the shareholders of Wachovia Corporation by allowing it to take advantage of certain tax attributes of Wachovia-Georgia while at the same time being fair to the depositors of the constituent banks.

Thank you for your assistance.

Very truly yours,

Michael E. Ray
General Counsel and Secretary
Wachovia Bank of Georgia, N.A.

## Investment Securities Letters

### 50 — May 1, 1991

Your letter on behalf of the bank to Mr. Peter C. Kraft requesting the Office of the Comptroller of the Currency (the OCC) to approve a series of transactions commonly known as a reverse stock split has been referred to me for decision. For the reasons set forth below, I have concluded that the OCC is unable to approve the bank's application.

The purpose behind the bank's application to effect a reverse stock split is to transfer 100 percent ownership of the bank to *** Bancorp, Inc., a one bank holding company. While in the past, the OCC has, as a matter of policy, allowed a bank's controlling shareholder to increase its ownership to 100 percent of a bank's shares via a reverse stock split,[1] the United States Court of Appeals for the Seventh Circuit recently upheld the decision of a lower federal court that reverse stock splits designed to freeze-out minority shareholders violate the National Bank Act. *Bloomington National Bank v. Telfer,* 916 F.2d 1305 (7th Cir. 1990), *aff'd, Bloomington National Bank v. Telfer,* 699 F.Supp. 190 (S.D. Ind. 1988). Like the lower court, the Seventh Circuit determined that the transaction violated the National Bank Act because the bank's acquisition of its own stock, combined with an avoidance of appraisal rights for the minority shareholders, was not in accordance with 12 U.S.C. 83 and 214a - 215a. 916 F.2d at 1308. The court further held that 12 U.S.C. 59, which permits a national bank to reduce its capital in certain instances, could not be used to legitimate a plan, i.e., a reverse stock split, that otherwise violates the National Bank Act. *Id.* at 1309. While the OCC has not agreed with the basis of the Seventh Circuit's analysis or holding in *Bloomington,*[2] it nonetheless has concluded, as a matter of policy, currently not to approve reverse stock splits designed to freeze-out minority shareholders.

J. Michael Shepherd
Senior Deputy Comptroller
Corporate and Economic Programs

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### 51 — July 23, 1991

This is in response to your letter of July 8, 1991, in which you request our opinion on whether the bank is the successor bank to the (*** corporation), for purposes of registration under section 12(g) of the Securities Exchange Act of 1934, as amended (34 Act), and the rules of the Office of the Comptroller of the Currency (OCC) issued thereunder. As stated in your letter, the bank has recently undergone a merger through which ownership of the bank was transferred from the corporation to the shareholders of the corporation, resulting in an elimination of the holding company form of ownership. The bank presently has more than 500 shareholders and total assets exceeding $3 million. Thus, the bank is subject to the registration requirements of section 12(g) of the 34 Act. The corporation, with total assets of more than $5 million and more than 500 shareholders, was also subject to section 12(g) of the 34 Act prior to its dissolution. In the merger/reorganization, all of the assets and liabilities of the corporation were transferred to the bank, and the holders of the corporation's securities exchanged such securities for the bank's securities. As such, the bank is the successor issuer to the corporation.

The Comptroller's regulations, which are generally required to be substantially similar to those of the

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[1] *See Comptroller's Manual For Corporate Activities,* section 32.1, p. 2 (December 1988).

[2] *See* Decision of the Comptroller of the Currency on the Application of Metro National Bank, Denver, Colorado to Perform a Reverse Stock Split

Securities and Exchange Commission, state that, where in connection with a merger a "successor bank" issues its securities to holders of securities of another "bank" registered pursuant to the provisions of section 12(g) of the 34 Act, the securities so issued shall be deemed registered. 12 CFR 11.202. Section 11.202 corresponds with the SEC's Rule 12g-3, 17 CFR 240.12g-3, which provides that the securities of successor "issuers" are similarly deemed registered in connection with mergers. In promulgating section 11.202, the OCC changed all references in the SEC's similar regulation from "issuer" to "bank," apparently without intending to change the meaning of section 11.202. *See*, letter of May, 1991 from ***, Attorney, Securities and Corporate Practices Division. Consistent with the interpretations of the SEC and with the intent of section 11.202 in providing continuing disclosure and reporting by public companies involved in mergers, the bank should be deemed the "successor bank" to the corporation and should be deemed to have its securities registered with the OCC upon consummation of the merger/reorganization.

Accordingly, the OCC will not require the bank to file a new registration statement, provided the bank files with the OCC a Form F-3 (current report) disclosing the consummation of the merger/reorganization and the transfer of registration from the SEC to the OCC, noting that future filings pursuant to the 34 Act will be made with the OCC, and attaching a copy of the corporation's registration statement previously filed with the SEC. In addition, please assure that any amendments to the registration statement, required to be made in light of the merger/reorganization, are included in an amendment to the registration statement on a Form F-20 (12 CFR 11.292). Further, you are reminded of the requirements for filing current reports with the SEC concerning the merger/reorganization on behalf of the corporation.

Jeff Mace
Attorney
Securities and Corporate Practices Division

* * *

## 52 — July 26, 1991

This is in reply to your letter dated April 23, 1991. You have requested our opinion regarding a proposal by *** *** Trust Company, a state-chartered institution, to operate a series of common trust funds (the funds) that in a like situation involving a national bank would be permissible pursuant to 12 CFR 9.18.

In your letter and in subsequent telephone conversations with staff,[1] you have represented that the trusts participating in the funds (the eligible trusts) would be established exclusively by a specified single United States based multinational "Fortune 500" company, its wholly owned and majority owned subsidiaries and affiliates and the employee benefit or similar plans created by such entities. The Trust Company would be the sole trustee or the co-trustee of each of the eligible trusts. You also acknowledge that the Trust Company would act in accordance with the declaration of trust[2] establishing each trust and that the proposed arrangements would be in conformity with applicable laws. Accordingly, the beneficiaries of the eligible trusts would have all rights available to them under the terms of the creating instrument and the applicable law.

In order to facilitate differing investment opportunities, the Trust Company intends to operate a series of common trust funds (the funds) in which the eligible trusts may participate. For example, initially the Trust Company may establish a fund investing in international equity securities or a fund featuring international fixed-income securities. You represent, however, that each fund established would be identical except for its name and the differing investment objectives and guidelines.

Further, you have indicated that the institutional entities establishing the eligible trusts have substantially the same characteristics and objectives as pension and profit sharing trusts subject to the Employee Retirement Income Securities Act of 1974 (ERISA), as amended, which may be collectively invested pursuant to 12 CFR 9.18(a)(2) and (b)(2). It is our understanding that the foreign entities and their employee benefit plans participating in the eligible trusts will generally not be subjected to United States income tax. While you assert the funds are substantially equivalent to funds pursuant to section 9.18(a)(2), since the proposed participants include foreign employee benefit or similar plans not subject to ERISA,[3] you seek our approval regarding the operation of the common trust funds as a specialized type of collective investment permitted pursuant to 12 CFR 9.18(c) (4).

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[1] This response is provided based on your request concerning your state bank client's income tax treatment pursuant to section 584 of the Internal Revenue Code of 1986, as amended.

[2] You have indicated that in certain foreign jurisdictions, the foreign subsidiary or affiliate, rather than a foreign pension plan trust, would be the settlor of the eligible trust, and thus would be responsible directly for the funding of the foreign employee benefit plan or for establishing the appropriate reserves.

[3] You have represented that the basic standards of ERISA with respect to the employee benefit and similar plans will be adhered to in the administration of the plans.

The Comptroller's regulation with respect to national banks found in 12 CFR 9.18(c)(4) provides:

> (c) In addition to the investments permitted under paragraph (a) of this section, funds or other property received or held by a national bank as fiduciary may be invested collectively, to the extent not prohibited by local law, as follows: . . .
>
> (4) In any investment specifically authorized . . . by the instrument creating the fiduciary relationship, in the case of trusts created by a corporation, its subsidiaries and affiliates or by several individual settlors who are closely related: Provided, That such investment is not made under this subparagraph for the purpose of avoiding the provisions of paragraph (b) of this section.

Funds commingled for collective investment pursuant to the requirements of section 9.18(c)(4) are not subject to the requirements of 12 CFR 9.18(b). Fiduciary Precedent No. 9.6500, *Comptroller's Handbook for Fiduciary Activities* (September 1990); Trust Interpretation No. 239 (November 2, 1989). You have represented that the participants in the proposed program meet the "closely related" test prescribed by section 9.18(c)(4), that the creating instrument authorizes the proposed investments, and that the investments are not being made for the purpose of avoiding section 9.18(b).

In light of the specific facts and circumstances surrounding the Trust Company's proposal, we agree that the funds meet the requirements of 12 CFR 9.18(c)(4) and are a permissible form of collective investment. Since we have favorably agreed with your request pursuant to section 9.18(c) (4), we do not address your alternative request for approval pursuant to section 9.18 (c)(5).

Please be advised that this opinion is limited to and based solely on the representations you have made. Any changes in the facts and circumstances surrounding the operation and administration of the funds might change our opinion.

Dean E. Miller
Senior Advisor for
Fiduciary Responsibilities

* * *

## 53 — July 30, 1991

This responds to your letter dated October 12, 1990, to Dean E. Miller, Senior Advisor For Fiduciary Responsibilities, and your subsequent letters dated January 29, 1991, and April 26, 1991, to Randall M. Ryskamp, Attorney, Securities and Corporate Practices Division, regarding the establishment and operation of *** *** Nuclear Decommissioning Common Trust Fund (the common trust fund) by First *** *** (First), a wholly owned subsidiary of First *** National Association. This will also acknowledge receipt by the Office of the Comptroller of the Currency (the OCC) of the January 29, 1991, and June 7, 1991, legal opinions prepared by Mr. *** of your firm regarding the validity of the common trust fund and the trust instruments underlying the common trust fund.

The purpose of your letters was to seek authorization under 12 CFR 9.18(c)(5) on behalf of First *** for certain special features of the common trust fund discussed more fully below. In particular, you have requested, on behalf of First *** that the OCC waive (a) the 10 percent participation limitation contained in 12 CFR 9.18(b)(9)(i), and (b) the exclusive management requirement contained in 12 CFR 9.18(b)(12). By letter dated December 27, 1990, the OCC granted the request by First *** for a waiver of the 10 percent participation limitation and reserved the request for a waiver of the exclusive management requirement pending further consideration. Based on the representations contained in your October 12, 1990, letter to Mr. Miller, your January 29, 1991, and April 26, 1991, letters to Mr. Ryskamp, the January 29, 1991, and June 7, 1991, legal opinions issued by Mr. ***, and for the reasons set forth below, the request by First *** for a waiver of the exclusive management requirement is granted pursuant to 12 CFR 9.18(c)(5).

### Background

The facts underlying the establishment of the common trust fund as described in your October 12, 1990, letter to Mr. Miller were set forth in the OCC's December 27, 1990, letter and need not be repeated here. In addition to those facts, your January 29, 1991, and April 26, 1991, letters to Mr. Ryskamp contain the following representations relative to your request for a waiver of the exclusive management requirement contained in 12 CFR 9.18(b)(12).

As required by *** law, a Nuclear Decommissioning Financing Committee (the Committee) was convened in August, 1986 for the *** Nuclear Power Plant (the *** facility). Under *** law governing the decommissioning of nuclear electric generating facilities (the decommissioning statute), the committee is responsible for ensuring that the decommissioning fund (the decommissioning fund) required under the decommissioning statute is sufficient to cover all costs of decommissioning the *** facility. The committee must take every precaution to preserve the decommissioning fund. In addition, the State Treasurer is charged with the responsibility to administer and preserve the decommissioning fund.

In enacting the Decommissioning Statute, the *** Legislature recognized the strong public benefit associated with comprehensive decommissioning procedures. The Legislature found that the public safety and well-being requires that adequate financial resources be available to ensure the proper and sage decommissioning of a nuclear power facility. *** ***. The committee held public hearings over a two year period culminating in a "Report and Order" (the Report), which concluded that the trust established under the Master Trust Agreement is a "proper" method for funding the decommissioning of the *** facility, and its findings, were upheld by the *** *** Supreme Court on appeal.

Under the Master Trust Agreement and the common trust fund, First *** has the authority for the investment and management of the assets contained in the decommissioning fund and the common trust fund. In light of their continuing duty to ensure public well-being and safety, however, the committee and the State Treasurer determined that it was necessary and proper to include certain checks and balances in First ***'s investment and management of the decommissioning fund. Therefore, the managing agent of the *** facility (the managing agent) was authorized to direct First *** to invest the assets of the decommissioning fund and the common trust fund in (i) securities exempt from federal and/or state taxation, or (ii) any asset consistent with the investment guidelines (the guidelines) associated with the Master Trust Agreement. Moreover, an investment consultant was appointed and charged with the responsibility to submit annual reports to the State Treasurer. Such reviews are necessary to make revisions to the guidelines, to determine if the decommissioning fund is being managed properly, and to determine whether the material assumptions underlying the decommissioning fund (such as the rate of inflation and taxes) are sound. Under the terms of the Master Trust Agreement, the guidelines must take into account considerations appropriate to achievement of the purposes described in the Master Trust Agreement such as the estimated commencement date for decommissioning the *** facility, the amount of moneys held in trust and anticipated earnings, the preservation of principal, appropriate liquidity throughout the estimated remaining life of the *** facility (so that amounts of decommissioning funds are available as needed), and the goal of maximizing trust earnings after the payment of applicable taxes and other expenses. Any revisions to the guidelines must be approved by the managing agent and the State Treasurer. As an additional check, the committee determined it was proper and reasonable to authorize the appointment of a fund manager (the fund manager). The managing agent, with the State Treasurer's approval, has the authority to appoint a fund manager to direct First ***, as trustee, to invest the assets of the decommissioning fund and the common trust fund in any asset consistent with the guidelines.

Notwithstanding the powers of the managing agent and the possible appointment of a fund manager, First *** as trustee, has the authority for determining whether an investment direction by either the managing agent or a fund manager is in compliance with the guidelines. If First ***, as trustee, determines the recommended investment decision is not in compliance with the guidelines, it need not implement the investment decision. Moreover, under both the master trust agreement and the common trust fund, First *** is expressly exonerated from any liability for action or inaction taken at the direction of the managing agent or a fund manager.

Mr. *** of your firm has opined that the master trust agreement creates a valid and enforceable trust under *** *** law and that the creation of the common trust fund by First *** was a valid exercise of the powers granted to it as trustee of the master trust agreement. Specifically, the January 29, 1991, opinion provides in pertinent part that "[a]lthough a trustee has a duty not to delegate the administration of the trust to another, a provision in the trust document directing the trustee to follow the directions of a third party with respect to the investment of trust property is valid and does not render the trust unenforceable under *** law." Similiarly, the June 7, 1991, opinion provides in pertinent part that:

> *** law . . . does not permit a trustee to delegate the entire administration of a trust (including a common trust fund) to another. *** ***. Although the [common trust fund] provides that the managing agent (or the fund manager), and not First ***, has certain investment authority, the utilization of the [common trust fund] by First *** does not constitute an improper delegation of its administration of the trust funds. First ***'s powers and responsibilities under the [common trust fund] originate from those given to First *** by the terms of the master trust [agreement]; and, therefore, the [common trust fund] does not in any way dilute the fiduciary obligations that First *** has as trustee of the trust funds. First *** has the same fiduciary obligations under both the master trust [agreement] and the [common trust fund].
>
> Based on the foregoing, we are of the opinion that the establishment of the [common trust fund] was a valid exercise of First ***'s fiduciary powers under *** *** law.

### Analysis

First ***, a trust company organized and subject to the law of the state of ***, is subject to the laws and regulations applicable to national banks by virtue of 12 CFR 5.34(d)(2). Pursuant to 12 CFR 9.18(b)(12), "[a] national bank administering a collective investment fund shall have the exclusive management thereof." The exclusive management provisions of 12 CFR 9.18(b)(12) are designed generally to ensure that a national bank fiduciary has the requisite authority to administer a collective fund in satisfaction of all its fiduciary responsibilities, and to prevent delegations or reservations of authority which interfere with the bank's fulfillment of these responsibilities. *See Decision of the Office of the Comptroller of the Currency on the Application by Connecticut Bank and Trust Company, N.A., to Establish a Common Trust Fund for the Collective Investment of Individual Retirement Account Trust Assets Exempt from Taxation under Section 408(a) of the Internal Revenue Code of 1954, as Amended.* If a national bank does not administer a collective investment fund pursuant to valid trust relationships, the bank's activity may run afoul of the prohibitions of the Glass-Steagall Act. *See Investment Company Institute v. Camp*, 401 U.S. 617 (1971) and *Investment Company Institute v. Conover*, 790 F.2d 925 (D.C. Cir. 1986), *cert. denied*, 479 U.S. 939 (1986).

In construing section 9.18(b)(12), the OCC has stated that "[t]he words 'exclusive management' should be given their usual and customary meaning and not be merely redundant with the duties inherent in being a trustee. Therefore, the trustee bank would have management authority and responsibility and must perform the administration and operation of a collective investment fund." OCC Trust Interpretation NO. 163, Fed. Banking L. Rep. (CCH)¶ 84,930 [1988-1989 Transfer Binder] (June 8, 1988). Importantly, however, the OCC's regulations governing common trust funds, including section 9(b)(12), "merely prescribe standards or requirements for collective investments by national banks; they do not purport to define when a particular service will be deemed 'fiduciary' in nature. *ICI v. Conover*, at 936. Indeed, the OCC has recognized that whether a trustee bank would have management authority and responsibility over a collective investment fund "must be interpreted based upon the common law of trusts and sound fiduciary principles." OCC Trust Interpretations No. 163.

Although in the present case First *** may not have "exclusive" management of the common trust fund, the OCC finds that the management authority and responsibility possessed by First *** is sufficient to satisfy its fiduciary responsibilities to the common trust fund, and thus, that First ***'s operation of the common trust fund is a valid exercise of its fiduciary powers and by extension, does not violate the Glass-Steagall Act. Indeed, the OCC has acknowledged that a bank may fulfill its fiduciary responsibilities under a trust even though it may not have investment powers with respect to the trust. OCC Fiduciary Precedent 9.4060 provides

> When a bank accepts the title of trustee, it accepts certain basic duties and responsibilities which other provisions of the governing instrument cannot serve to qualify. Even if a governing instrument places investment powers in a third party, unless it is an outside investment manager as defined in section 3(38) of ERISA, a bank must require that all investment directions be given to it for transmittal to the broker or to the party through whom the transaction is to be effected. If the bank receives a direction which would be clearly contrary to the purposes for which the account was created, or involve a breach of duty on the part of the person giving the direction, the bank must refuse to carry out the direction. In addition, the trustee bank must periodically scan the portfolio of the account to ascertain whether any of the investments therein have subsequently become objectionable for the reasons given above. In neither case is the bank required to conduct such an inquiry as would be necessary if it had the investment responsibility for the account. The bank does not have the duty to object merely because the investment is not one which it would make. Indeed, in such circumstances, it is under a duty to comply with the direction. The duty to object only arises when the direction involves a breach of duty on the part of the powerholder of which the bank should be aware.

*Comptroller's Handbook for Fiduciary Activities*, Fiduciary Precedent 9.4060, p. 239 (September 1990).

Significantly, in the present case, the trust instruments do not attempt to qualify First ***'s basic fiduciary duties and responsibilities. To the contrary, First *** has retained the authority necessary to fulfill its fiduciary responsibilities. Under the master trust agreement and the common trust fund, First *** has the authority for the investment and management of the common trust fund, although these trust instruments also provide that the managing agent and a fund manager may direct First *** to invest the assets of the common trust fund in any asset consistent with the guidelines. If, however, the investment direction of the managing agent or a fund manager is not consistent with the guidelines, First *** has the express authority under the master trust agreement and the implicit authority under the common trust fund not to comply with the direction. Additionally, First *** is expressly exonerated from any liability resulting from any action or inaction taken at the direction of the managing agent or the fund manager. Moreover, because the guidelines only embody investments which are appropriate to the achievement of the purposes of the underlying trusts First *** should not be placed in the position of breaching its fiduciary duties when complying with an investment instruction permitted by the guidelines Of course, if First *** were placed in the position of breaching its fiduciary duties when complying with an investment direction, it must, in accordance with Fiduciary Precedent 9.4060, refuse to follow the direction

Notwithstanding its findings in the present case, the OCC does not believe that a provision in a common trust fund instrument granting investment authority of the fund to a third party would, standing alone, justify a waiver of the exclusive management requirement. If that were the case, the valid purposes served by the exclusive management requirement could be too easily circumvented. Indeed, absent a compelling reason, such as the strong public policy considerations and the express requirements of a state statute that implements the requirements of a comprehensive regulatory scheme, which are inherent to the common trust fund under the present facts, the OCC will require the trustee of a common trust fund to have exclusive investment authority over the assets of the fund.

Please note that the waiver granted herein is based on the facts and representations made in your letters and telephone conversations with the OCC and that any material changes in the facts or representations may result in a different conclusion.

Susan F. Krause
Senior Deputy Comptroller
Bank Supervision Policy

* * *

## 54 — July 30, 1991

This is in response to your letter of February 28, 1991, on behalf of *** who is currently a 2 percent shareholder and a member of the board of directors of *** *** (bank). You request confirmation that he has properly rebutted the presumption that his proposed acquisition of stock, resulting in ownership of more than 10 percent but less than 25 percent of the bank's stock, would provide him the power to direct the institution's management for purposes of 12 CFR 5.50(d)(1) and (3)

Under the Change in Bank Control Act (CBCA), no person shall acquire control of any insured bank unless the appropriate federal banking agency has been given 60 days prior written notice and within that time the agency has not issued a notice disapproving the proposed acquisition. 12 U.S.C. 1817(j)(1). "Control" is defined as "the power, directly or indirectly, to direct the management or policies, or to vote 25 percent or more of a class of voting securities, of an insured bank." 12 U.S.C. 1817(j)(8)(B). Under 12 CFR 5.50(d)(1)(ii), ownership, control, or the power to vote 10 percent or more of a class of voting securities of a national bank will be presumed (subject to rebuttal) to be an acquisition by such person of the power to direct that institution's management or policies if no other person owns a greater proportion of that class of voting securities. Under 12 CFR 5.50(d)(3), an acquiring person may request an opportunity to contest the presumption and the Comptrollers' office will afford the person an opportunity to present views orally or in writing.

As set forth in a letter of February 27, 1991, from *** *** who is the bank's general counsel, the bank is contemplating offering up to $2 million of common stock in a nonpublic offering or a public offering, depending on market conditions at the time of the offering. *** has expressed an interest in purchasing approximately $500,000 of the new shares, which, together with the stock he already owns, will result in his ownership of between 11 percent and 16 percent of the bank's stock, depending on the number of shares sold. To the bank's knowledge, no other person would own a greater proportion of the bank's common shares. Although the final terms of the offering may include the issuance of warrants to acquire additional shares of common stock, the bank would not issue, or permit *** to exercise, warrants to the extent that such issuance or exercise would cause him to own more than 25 percent of the common stock of the bank.

The bank has required that *** execute a Shareholder Agreement (Agreement) as a condition of his purchase of the newly issued shares. The bank believes that the agreement should serve to rebut the presumption of control by *** under 12 CFR 5.50(d)(1) and (3). The bank also has made the agreement a prerequisite to selling the additional sales to *** at a price not reflecting a control premium. I understand, from a telephone conversation concerning the proposal, that the agreement is patterned after a Rebuttal of Control Agreement used under the CBCA for changes in control of thrifts under the jurisdiction of the Office of Thrift Supervision (OTS), and codified at 12 CFR 574.100. You have argued that the OCC should consider such an agreement as rebutting the presumption of control with respect to national banks.

According to the agreement, *** will not, except as otherwise expressly provided in the agreement or pursuant to an amendment to the agreement

- Seek or accept representation of more than two members of the board of directors of the bank (***. while he serves as a director);
- Have or seek to have himself or any representative serve as chairman of the board of directors, or chairman of an executive or similar committee of the board of directors or as president or chief executive officer of the bank;
- Engage in any intercompany transaction with the bank or the bank's affiliates except on terms available to all other directors of the bank;
- Propose a director in opposition of nominees proposed by management of the bank for the board of directors, other than as permitted in paragraph 1;
- Solicit proxies or participate in any solicitation of proxies with respect to any matter presented to the stockholders of the bank other than in support of, or in opposition to, a solicitation conducted on behalf of management of the bank;
- Do any of the following, except as necessary solely in connection with *** performance of duties as of member of the bank's board of directors:

  (a) Influence or attempt to influence in any respect the loan and credit decisions or policies of the bank, the pricing of services, any personnel decisions, the locations of any offices, branching, the hours of operation or similar activities of the bank;

  (b) Influence or attempt to influence the dividend policies and practices of the bank or any decisions or policies of the bank as to the offering or exchange of any securities;

  (c) Seek to amend, or otherwise take action to change, the bylaws, articles of incorporation, or character of the bank;

  (d) Exercise, or attempt to exercise, directly or indirectly, control or a controlling influence over the management, policies or business operations of the bank;

  (e) Seek or accept access to any non-public information concerning the bank; or,

  (f) Acquire additional shares of voting securities of the bank in an amount that would cause *** to own more than 25 percent of any class of the bank's voting securities.

Under the agreement, *** also has agreed not to assist, aid or abet any of the bank's affiliates or associates that are not parties to the agreement to act, or act in concert with any person or company, in a manner which is inconsistent with the terms or which constitutes an attempt to evade the requirements of the agreement. Any amendment to the agreement shall only be proposed in connection with an amended rebuttal filed by *** with the Comptroller of the Currency for its determination. The agreement also states that because *** does not wish to exercise control of the bank or pay a control premium, he will abide by the terms of the agreement even if he is required to file a CBCA notice and obtain clearance under the Comptroller's procedures for change in control.

You believe that the limitations contained in the agreement in the context of the proposed offering represent significant restrictions on *** ability to influence the bank, and therefore serve to rebut the presumption of control as provided in 12 CFR 5.50(d)(3).

Based upon the above restrictions and representations, I cannot conclude that *** has successfully rebutted the presumption that the proposed acquisition would provide him with the power to direct the bank's management or policies, and therefore acquire control of the bank for purposes of the CBCA. Although representation on a bank's board of directors may be designed to provide an investor with a voice in corporate affairs, without necessarily directing the institution's management or policies, ***'s position on the board, combined with his ability to seek or accept representation of two members (including himself), would appear to empower him, directly or indirectly, to direct the management and policies of the bank. While the agreement would restrict *** from performing a number of functions, such as influencing loan or credit decisions, except as necessary in connection with his duties as a member of the bank's board of directors, the agreement as written does not provide similar restrictions on *** representatives. Further, such restrictions, even if added, could be difficult to interpret in particular circumstances, or inhibit the representatives from fully exercising their responsibilities and duties as directors.

As you know, the OCC has not adopted an interpretation of the CBCA which incorporates the use of any particular agreement to rebut the presumption of control. Moreover, although not controlling for purposes of our Office's determination, the powers reserved to *** in the agreement also exceed, in several respects, the limitations in the OTS's model Rebuttal of Control Agreement (the OTS Agreement). For example, the OTS Agreement limits the applicant to one representative (inclusive of the applicant) on the board of directors. As stated above, the agreement would permit *** to be represented by two board members. The OTS Agreement does not provide for intercompany transactions between the applicant and the bank or its affiliates. The agreement would permit *** to engage in intercompany transactions on terms available to all other directors of the bank.

In general, in order for a person such as ***, who proposed to own 11 percent to 16 percent of a bank's stock, to rebut the presumptions of control stated in 12 CFR 5.50(d)(1), he must be a passive investor and not be in a position to exercise a controlling influence on the bank. Since the above information does not indicate that ***'s interest would satisfy that standard, he will be presumed to acquire control of the bank if he proceeds with the transaction, as proposed. Accordingly, he must provide the Comptroller with 60 days' prior written notice, in accordance with 12 U.S.C. 1817(j)(1), before acquiring the additional stock.

Michael C. Dugas
Senior Attorney
Securities and Corporate
Practices Division

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## 55 — August 5, 1991

This is in response to your July 15, 1991, request for an opinion as to whether a national bank may purchase a debenture which is convertible, after a specified occurrence, into equity securities of the issuers at the issuer's option.[1] Specifically, the debenture in question contains a provision that permits the issuer to convert the debenture to stock in the event, and only in the event, that

> The closing price of the [issuer's] stock has been quoted by the National Association of Securities Dealers (NASD) as reflected by NASDAQ (or any national exchange on which the stock may be traded) at an average weighted price of $12.50 per share or higher for at least twenty (20) consecutive business days ending no more than twenty (20) business days prior to any notice by (corporation) to the record holder thereof of its election of such conversion. It is understood by the record holder that such consecutive twenty (20) business days may occur at any time after July 15, 1988. For the purposes hereof, "average weighted price" shall be calculated by reference to a fraction, the numerator of which shall be the aggregate of the product for each day during the twenty (20) day period of the number of shares traded by the closing price; as evidenced by quotations furnished by the NASD, and the denominator of which shall be the total number of shares traded during such twenty (20) day period.

Please be advised that a national bank may purchase and hold such debentures, but only prior to the date of the occurrence upon or after which the issuer may exercise the conversion option, i.e., a national bank must sell such a security before the date when the conversion option comes into effect.

As you are aware, 12 CFR 1.9 prohibits a national bank from purchasing investment securities that are convertible into stock at the option of the issuer. This prohibition is derived from the provision in 12 U.S.C. 24 (Seventh) which generally prohibits national banks from owning equity securities. If, however, under the terms of the debenture, such an option may not be exercised prior to a specified date, then, in effect, there is no conversion option prior to that date and the purchase or holding of the securities before commencement of the conversion option period does not violate section 1.9. *See* Unpublished April 8, 1986, letter from William B. Glidden, Assistant Director, Legal Advisory Services Division; *see* also, unpublished April 22, 1986, letter from William B. Glidden, Assistant Director, Legal Advisory Services Division and unpublished June 28, 1988, letter from William B. Glidden, Assistant Director, Legal Advisory Services Division.[2]

In the instant case, the national bank purchasing the security would be required to monitor the price of the issuer's stock on a daily basis to ensure that the average weighted price of such stock will not reach or exceed $12.50 per share for any consecutive 20 day period prior to the bank's sale of the debenture. Additionally given the definition of "average weighted price" as it relates to the conversion option, the bank would be required to establish safeguards that would enable the bank to sell the security on a short-term basis should the price of the issuer's stock increase suddenly so as to trigger the option period. One possible form of safeguard would be for the bank to enter into a mandatory repurchase agreement wherein the seller would agree to repurchase the debenture if the closing price of the issuer's stock achieves an average weighted price of $12.50 per share or higher for a period of at least 20 consecutive business days. It remains the position of the OCC that securities with any conversion feature that is triggered by anything outside the control of the holder constitutes and impermissible investment. *See* unpublished April 22, 1986, letter cited *infra*. Because, however, the bank will be able to determine when the conversion option will commence, and will thus be able to dispose of the debenture prior to such occurrence, the conversion feature in the instant case will not be triggered by an event outside the control of the bank.

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[1] [illegible]

[2] It should be noted that the marketability of the security and thus its suitability for holding as an investment security by a national bank may be affected by market perceptions of the likelihood that the issuer will exercise the conversion option. *Id.*

Randall M. Ryskamp
Attorney
Securities and Corporate
Practices Division

* * *

## 56 — September 16, 1991

This is in response to your request for an opinion as to whether 12 U.S.C. 72 permits the foreign national who owns over 95 percent of the stock of *** (bank) to appoint to the board of the bank a director who is not a U.S. citizen.

12 U.S.C. 72 provides that

> [e]very director must, during his whole term of service, be a citizen of the United States . . . except in the case of an association which is a subsidiary or affiliate of a foreign bank, the Comptroller of the Currency may in his discretion waive the requirement of citizenship in the case of not more than a minority of the total number of directors.

This provision only permits the OCC to waive the requirement that all directors be U.S. citizens when a national bank is a subsidiary or affiliate of a foreign bank. It is our understanding that the bank is more than 95 percent owned by a foreign individual and that individual does not own stock in any foreign banks, either directly or indirectly. Since the bank does not appear to be in any way related to a foreign bank, the bank does not qualify as a subsidiary or affiliate of a foreign bank.[1] Accordingly, the OCC may not waive the U.S. citizenship requirement for any of the bank's directors.

However, the bank's owner may appoint to the board a foreign individual to serve as an honorary or advisory director in accordance with 12 CFR 7.4110. There is no requirement that an honorary or advisory director be a U.S. citizen. Such a director would act in an advisory capacity without the power of final decision in matters concerning the business of the bank. Any listing of such a director must distinguish between him and the bank's board of directors or indicate his advisory status.

Elizabeth S. Malone
Attorney
Securities and Corporate
Practices Division

* * *

## 57 — November 15, 1991

This is in response to your letter of September 17, 1991, in which you request no objection from the Office of the Comptroller of the Currency (OCC) to the exchange of warrants issued to the underwriter with new warrants having the same terms and conditions as those which were publicly issued and are currently being publicly traded on the over the counter market (public warrants).

The facts, as I understand them, are as follows: the bank converted ***. In July 1990, prior to conversion, the bank issued to the public units consisting of convertible debentures and public warrants having an exercise price of $6.25 per share. As part of the July 1990 public offering and as consideration for services rendered in the offering, the bank issued warrants to *** the underwriter in the offering (underwriter warrants). The underwriter warrants, while disclosed in the public offering, have slightly different terms from the public warrants and were not offered as part of the public offering. Further, at the time of issuance, the underwriter warrants were deemed to be "restricted securities" subject to the provisions of Rule 144 of the Securities and Exchange Commission (SEC).

Since then, the underwriter has expressed a desire to exchange the underwriter warrants for warrants having the same terms and conditions as the public warrants, in order for the underwriter to trade the warrants. Because the bank had agreed to have the underwriter warrants registered when and if requested to do so by the underwriter (in order that the underwriter be permitted to transfer the warrants without restriction), the bank agreed to take steps to effect registration of the warrants. To this end, the bank agreed with the underwriter to exchange the underwriter warrants for warrants having terms similar to the public warrants. You have stated that absent the bank's conversion, the bank would have been able to effectuate the registration of the warrants by filing a Form S-2, without much cost to the bank.

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[1] For a discussion of the percentage ownership necessary to qualify as a subsidiary or affiliate of a foreign bank *see* OCC Interpretive Letter No. 279, dated January 25, 1984, [1983-84 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,443.

Section 16.3 of the Comptroller's regulations, 12 CFR 16.3, provides that no national bank may directly or indirectly offer its securities without the use of an Offering Circular which has been declared effective by the OCC. While section 16.4 provides certain exemptions from the requirement of an offering circular, those provisions would not permit the proposed transaction.

Because the bank's securities are registered with the OCC pursuant to the provisions of section 12 of the Securities Exchange Act of 1934, as amended (Exchange Act), because the bank agreed with the underwriter to register the warrants on request, and because of the unique circumstances present in this situation, this division will not object to the exchange of the "restricted securities" for new public warrants if the bank prepares and files an abbreviated offering circular, meeting the requirements of Form S-2. Please note that this opinion is based strictly on the facts and representations as presented. Any change in the facts or representations made may result in a different position, and the OCC reserves its rights to take appropriate action should any of the facts differ from those represented to us.

In addition, please be reminded that the OCC's position with respect to the issuance of warrants has been that a national bank must assure that holders of warrants have access to an updated offering circular with current financial information concerning the condition of the bank at the time of decision to exercise the warrants. Because the securities of the bank are registered with the OCC under the Exchange Act, the bank is required to disclose publicly all material information in its periodic filings under section 13 of the Exchange Act. Accordingly, the OCC will permit the bank to make available to the holders of the warrants copies of the initial prospectus used in the issuance of the public warrants together with copies of its public filings, in order to assure that the holders of the warrants have sufficient information upon which to make a decision about whether to exercise the warrants. Please be reminded, however, that should the bank cease to have its securities registered with the OCC, then the bank must take appropriate steps to provide an updated offering circular to the holders of the public warrants at any time that a holder desires to exercise a warrant.

In view of the potential liabilities which may attach under section 11 of the Securities Act of 1933 and section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, we caution the bank to consider the needs and means for accurately and completely disclosing all material facts to the investors.

Jeff Mace
Attorney
Securities and Corporate
Practices Division

* * *

## 58 — November 22, 1991

This is in response to your request on behalf of *** *** (bank) for exemptive relief from 12 CFR 9.18(b)(4). That regulation sets a one year limitation on the amount of prior notice a bank trustee may require for withdrawals from a collective investment fund holding assets which are not readily marketable such as real estate. The staff has determined not to recommend approval of your request.

The facts, as you have represented them to us, are as follows. The bank established the *** (fund) in 1973. The fund is an open-end, commingled real estate fund which provides employee benefit trusts with a vehicle for investing in real estate. As of June 30, 1991, the fund had approximately $192 million in assets. The bank has received redemption requests at a considerably higher rate recently than in previous years and expects to receive additional requests in the coming months. The bank believes that the redemption requests have accumulated to the point where they will be more than the bank can satisfy from the operating cash of the fund and prudent sale of assets during the one year period set forth in 12 CFR 9.18(b)(4). The bank has not attempted to obtain the fund participants' consent to an extension of the one year prior notice period.

The plan *** *** (plan) provides that *** ***

> notwithstanding any of the provisions of the plan, the Common Fund shall be administered in conformity with applicable laws . . . of the United States, and all rules and regulations promulgated from time to time under the authority of such laws including specifically the rules and regulations, prevailing from time to time of the Comptroller of the Currency . . . all of which shall be deemed to be a part of this plan.

The plan does not specifically state how much prior notice may be required for the redemption of fund units. The fund's prospectuses for the past several years have provided varying information as to the waiting period for redeeming fund units. The prospectuses for 1989 -

1991 provide that the fund will attempt to limit redemption delays to a maximum of 12 months but that if the fund is unable to satisfy all redemption requests within that period, the fund may seek an exemptive order or other relief from the OCC. The prospectuses for 1984 - 1988 provide for redemption delays from up to 12 months or more to up to 24 months or more but do not mention the possibility that the fund may request exemptive relief from the OCC. It is unclear what information was included in the bank's prospectuses prior to 1984.

The bank has requested that the OCC extend the termination date of the one year period for the fund from January 31, 1992, January 31, 1994, or when all of the requests for redemptions which are currently outstanding are satisfied. We are concerned that, due to the existence of the OCC's one year prior notice regulation and the fact that the plan incorporates that regulation, an exemption could be contrary to the expectations of the fund participants. The OCC will not object, however, to the bank's failure to comply with the one year requirement of 12 CFR 9.18(b)(4) if the bank obtains the consent of each of the plan participants to waive its individual rights.

Property values in a depressed real estate market will reflect those market conditions. The valuation of each participant's holding in the fund and any redemptions may therefore be lower than in previous years. Nevertheless, in our view, participants who elect to withdraw from the fund during adverse market conditions are entitled to redeem their holdings at these reduced valuations in accordance with the time period set forth in 12 CFR 9.18(b)(4).

In light of the foregoing facts, the OCC staff has decided not to recommend approval of the bank's request for relief from the one year prior notice limitation of 12 CFR 9.18(b)(4).

Dean E. Miller
Senior Advisor for
Fiduciary Responsibilities

* * *

## 59 — December 16, 1991

This is in response to your letter of October 30, 1991, requesting that the Office of the Comptroller of the Currency (OCC) confirm that *The Director's Book* and *A Director's Guide to Board Reports* should not be interpreted to define the responsibilities of directors under applicable law or to impose substantive obligations not already present. *The Director's Book* and *A Director's Guide to Board Reports* were prepared by the OCC. *A Director's Guide to Board Reports* was prepared as an extension of *The Director's Book*

As the prefatory note to *The Director's Book* indicates, the publications are intended to provide practical guidance to national bank directors generally Such guidance may assist directors in the fulfillment of their duties to their financial institutions, stockholders, and depositors, as well as their responsibilities to the public at large. However, the publications do not purport to define as a matter of law precisely what directors' responsibilities are in every situation or to impose additional legal obligations that do not otherwise exist. The nature and degree of involvement required of a board in the day-to-day management of a bank will vary considerably from institution to institution and situation to situation. Thus, the prefatory note encourages directors to seek the advice of counsel concerning their responsibilities in individual circumstances.

William P. Bowden, Jr.
Chief Counsel

* * *

## 60 — December 31, 1991

This is in response to your letter to the Chief Counsel's office requesting an opinion as to whether all parties to a proposed absolute voting and stock restriction agreement are "principal shareholders" for purposes of Regulation O, as promulgated by the Board of Governors of the Federal Reserve System (Reg O). 12 CFR 215. You state that you are particularly concerned about the coverage of two provisions of Reg O: (1) 12 CFR 215.4(b)(1) which prohibits a member bank from making extensions of credit in excess of $25,000 or 5 percent of capital and unimpaired surplus to its "principal shareholders" or related interests, unless the extension of credit has been approved in advance by a majority of the entire board of directors of that bank, and the interested party has abstained from participating in the voting; and (2) 12 CFR 215.7(a) which requires a bank to maintain records identifying all "principal shareholders" of the bank and their related interests.

Reg O, which governs insider lending restrictions and insider indebtedness reporting requirements for banks which are members of the Federal Reserve System, implements 12 U.S.C. 375b, 1817(k), and 1972(2) The definition of "principal shareholder" which applies to the two provisions of Reg O about which you are particularly concerned is derived directly from the language of 12 U.S.C. 375b and is set forth at 12 CFR 215.2(j). However, since 12 U S C 1817(k) and 1972(2) draw on alternative definitions of "principal shareholder" and those statutes are also implemented through Reg O, it is appropriate to discuss the treatment of voting agreements and voting trusts (collectively referred to as "voting trusts")[1] under all three statutes.[2]

A principal shareholder for purposes of 12 U.S.C. 375b (imposes restrictions on a national bank in lending to its insiders) is defined in Reg O to include one who "directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities" of a member bank or company. (emphasis added).[3] Similarly, a principal shareholder for purposes of 12 U.S.C. 1972(2) (A)-(F),[4] (restricts preferential lending to the principal shareholders of a national bank by a correspondent bank) includes a person who "directly or indirectly or acting through or in concert with one or more other persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of [a national bank]." (emphasis added). On the other hand, the definition of a principal shareholder for purposes of 12 U.S.C. 1817(k) and 1972(2)(G) (relating to the public disclosure and reporting requirements of insider indebtedness) does not contain the acting in concert language and only includes a person who "directly or indirectly, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of the member bank."[5]

By concentrating on the acting in concert language which is contained in the principal shareholder definitions for purposes of 12 U.S.C. 375b and 1972(2) (A)-(F) but not for purposes of 12 U.S.C. 1817(k) and 1972(2)(G), the OCC has inadvertently developed incongruous interpretations. The OCC has in some cases interpreted the acting in concert language in section 375b to hold that all beneficiaries of voting trusts which in aggregate hold more than 10 percent of a class of a bank's voting stock are automatically principal shareholders; by merely entering into a voting trust arrangement, they are presumed to act in concert. On the other hand, the OCC has held that, because the acting in concert language is omitted from the principal shareholder definitions for purposes of the public disclosure and reporting requirements of section 1817(k) and 1972(2)(G), a beneficiary is only a principal shareholder under those statutes if the beneficiary individually is a 10 percent shareholder or the requisite degree of indirect control can be established.

The plain language of 12 U.S.C. 375b and its legislative history do not support the position that beneficiaries of voting trusts holding more than 10 percent of a class of a bank's voting stock are automatically principal shareholders. Instead, principal shareholder status should be determined in an identical manner under 12 U.S.C. 375b, 1817(k), and 1972(2). Absent the power to direct or influence the trustees' voting decisions, beneficiaries of voting trusts which hold in the aggregate more than 10 percent of a class of voting stock should not be deemed to act in concert to own, control, or vote the stock held in trust. When Congress enacted the insider lending statutes as part of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRA),[6] its intent was to encompass within the statutes' requirements those insiders who have the potential to influence a bank's policies and, consequently, use their positions of control to obtain unsound loans from the bank or its correspondent bank.[7] The legislative history of the statutes reveals no purpose for Congress's inclusion of the acting in concert language in section 375b and 1972(2) (A)-(D) but not in section 1817(k) (as originally enacted in FIRA) and section 1972(2)(G). Congress included within the class of insiders for purposes of 12 U.S.C. 375(G), principal shareholders who either directly or indirectly, or acting in concert, own, control, or have the power to vote more than 10 percent of a class of stock.[8] Clearly, the focus of section 375b was the ability of an insider to control the bank's policies. Not all beneficiaries of a voting trust satisfy the statutory ownership, control or voting powers criteria to be deemed principal shareholders for purposes of section 375b.

It is characteristic of voting trusts that voting power and legal or record ownership of shares held in trust are vested in the trustees while the beneficiaries retain beneficial ownership represented by voting trust certificates.[9] One result of this split between legal and beneficial ownership is that neither the beneficiaries nor the trustees are owners of the stock for all purposes, but both are owners for those purposes set forth in the voting trust agreement.[10] The legislative history of 12 U.S.C. 375b makes clear that the attribute of ownership intended by Congress to confer principal shareholder status is the ability to influence the institution's lending policies.[11] Only by looking at the terms of the voting trust agreement is it possible to determine whether beneficiaries may be able to exercise such influence and, thus, are "owners" of shares for purposes of Reg O.[12] Voting trust beneficiaries should be deemed to act in concert to control or vote the shares held in trust for purposes of Reg O when they retain the ability to influence the voting of bank shares under the voting trust agreement.

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[1] The concerns raised in your letter also pertain to voting trusts. Therefore, any discussion of or determination made in connection with voting trusts also applies to voting agreements.

[2] The discussion herein also applies to determinations of principal shareholder status under 12 CFR 31. 12 CFR 31 (applicable to national banks), in addition to Reg O, implements the requirements of 12 U.S.C. 375b, 1817(k), and 1972(2)(G).

[3] See also 12 CFR 31.3.

[4] The restrictions of 12 U.S.C. 1972(A)-(F) (applicable to banks in connection with a correspondent account relationship) are not expressly implemented by regulation.

[5] 12 U.S.C. 1817(k)(1976), amended by the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, 96 Stat. 1469 [illegible] 215.21(e) and [illegible]

[6] Pub. L. No. 95-630, 92 Stat. 3641 (1978).

[7] *See* H.R. Rep. No. 1383, 95th Cong., 2d Sess. 10-14 (1978), reprinted in 1978 U.S. Code Cong. & Ad. News 9273, 9282-86.

[8] 12 U.S.C. 375b; 12 CFR 215.2(j).

[9] *See* 5 W. Fletcher, *Cyclopedia of the Law of Private Corporations* section 2075 (rev. perm. ed. 1987).

There is a clear distinction between acting in concert to form the trust and acting in concert thereafter to control the stock held in trust. The plain language of 12 U.S.C. 375b encompasses only the latter situation, *i.e.*, a person who "directly or indirectly or acting through or in concert with one or more persons . . . controls . . . more than 10 per centum of any class of [the bank's] voting securities . . . ." Whether the beneficiaries are in a position to exercise the control of a principal shareholder can only be determined by reference to the terms of the voting trust agreement.

In our opinion, terms of the voting trust agreement governing the rights of the beneficiary must be reviewed when determining whether the beneficiary has the ability to influence the voting of bank shares and therefore should be considered a principal shareholder of the bank for purposes of 12 U.S.C. 375b, 1817(k), and 1972(2), and Reg O.[13] Those terms typically govern the beneficiary's right to:

1. Direct the voting of the shares held in trust on matters other than a proposal to merge, consolidate or voluntarily liquidate the bank.[14]
2. Terminate the trust at will (the power to amend the trust agreement, without restriction, may be interpreted as retaining the power to revoke);
3. Select the trustee(s) or remove the trustee(s) without cause;
4. Withdraw his/her shares from the trust at any time; or,
5. Otherwise exercise control over or influence the voting decisions of the trustee(s).

Where beneficiaries are granted any of the above five rights, those beneficiaries can be said to be beneficiaries of "nonabsolute voting trusts." Beneficiaries who are granted none of the five powers can be said to be beneficiaries of "absolute voting trusts."

The presence or absence of the above features in a voting trust agreement gives rise to the following standards to be applied in determining principal shareholder status. These standards are intended to reflect the idea that in order to be a principal shareholder, a beneficiary must have the power to influence the voting of bank shares. Where a beneficiary possesses an interest of 10 percent or more in a voting trust that holds more than 10 percent of a class of voting securities of a national bank and has any of the above rights under the terms of the voting trust agreement, that beneficiary may be considered a principal shareholder for purposes of 12 U.S.C. 375b, 1817(k), and 1972(2), and Reg O. Thus, in the case of nonabsolute voting trusts, beneficiaries possessing an interest of 10 percent or more in a voting trust that holds more than 10 percent of a class of voting securities of a national bank typically will be deemed to be principal shareholders.

Any beneficiary possessing an interest of 25 percent or more in a voting trust that holds more than 10 percent of a class of voting stock of a national bank will be voting decision and thus be a principal shareholder. This presumption may be rebutted by a beneficiary who can show that he/she is not able to influence the trustee's voting decisions. The OCC will consider the five factors listed above in determining whether the presumption has been rebutted. In this case, regardless of whether the voting trust is absolute or nonabsolute beneficiaries possessing interests of 25 percent or more in voting trusts holding more than 10 percent of a class of voting securities of a national bank are subject to principal shareholder designation.

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[10] *Id.* at section 2092.

[11] *Supra* note 7.

[12] The FDIC has found that mere retention by voting trust beneficiaries of beneficial ownership and the related economic benefit are insufficient, absent the ability to control or influence trustee voting decisions, to confer principal shareholder status. *See* FDIC Staff Opinion, letter from Pamela E. F. LeCren, Attorney, to Stephen W. Grow, at 2 (October 29, 1979).

[13] The same analysis is also applicable to determinations of principal shareholder status under 12 CFR 31. *See supra* note 2.

[14] Beneficiaries of trusts who have the right to direct the voting of shares held in trust only on proposals to merge, consolidate or voluntarily liquidate the bank, but who otherwise have no power to control or influence voting under the criteria set forth above, may not be deemed principal shareholders. A beneficiary who directly or indirectly retains the power to vote only on such corporate reorganization or liquidation proposals ordinarily does not retain the ability to influence the bank's lending policies or display any other types of control associated with a principal shareholder. If, however, a beneficiary is also a voting trustee, that person is clearly a principal shareholder by virtue of the fact that the voting trustee votes the stock held in trust even though other beneficiaries may not be principal shareholders under the criteria set forth above.

These standards typically will exempt from principal shareholder status a number of voting trust beneficiaries. Where a beneficiary of a voting trust holding in excess of 10 percent of a class of voting stock of a national bank does not have any of the five powers set forth above and has successfully rebutted the presumption, as necessary, and the trustee possesses exclusive voting power and discretion, the beneficiary generally will not be deemed a principal shareholder for the purposes of 12 U.S.C. 375b, 1817(k), and 1972(2), and Reg O. In addition, a beneficiary who possesses an interest of less than 10 percent in a voting trust holding in excess of 10 percent of a class of voting stock of a national bank generally will not be deemed a principal shareholder for the purposes of 12 U.S.C. 375b, 1817(k), and 1972(2), and Reg O.

Determination of principal shareholder status should be made on a case by case basis in accordance with the guidelines set forth above. The OCC may grant exceptions to this interpretation if, in the opinion of the OCC, an exemption would be consistent with the purpose of the statutes. Exceptions may be requested by forwarding a letter and the necessary documentation to the deputy comptroller in the district where the bank is located.

Ellen Broadman
Director
Securities and Corporate
Practices Division

* * *

### 61 — December 31, 1991

We recently received a complaint concerning an advertisement which your institution placed in the *** ***, discussing one of your institution's mutual funds. The concerned party, in the complaint and a subsequent telephone conversation, alleged that the advertisement did not disclose that the advertised rate of return is subject to change and that fees connected with investment in mutual funds were not, but should be, disclosed in such advertisements.

While bank-administered mutual funds are not *per se* subject to National Association of Securities Dealers (NASD) standards in regard to advertising, they provide useful guidance for banks advertising mutual fund products to avoid potential violations of the anti-fraud provisions of the federal securities laws. We note that Rule 34b-1 of the Investment Company Act of 1940, which is applicable to the sale of registered investment company securities, requires disclosure of relevant performance data to avoid rendering advertisements materially misleading. We further note that Rule 482 of the Securities Act of 1933, which is incorporated in Rule 34b-1, mandates that "if a sales load or any other nonrecurring fee is charged, the advertisement must disclose the maximum amount of the load or fee; if the sales load or fee is not reflected, the advertisement must also disclose that the performance data does not reflect its deduction, and that, if reflected, the load or fees would reduce the performance quoted."

In the instant situation, the complainant contended that the actual fees should be clearly disclosed in the advertisement. We note that the advertisement clearly stated that "[p]ast performance does not guarantee future results," and that the rate of return is "net of all fees."

Finally, we note that the advertisement does not disclose that investments in mutual funds are not protected by federal deposit insurance. To avoid the risk of making false or misleading statements, in potential violation of the anti-fraud provisions of the federal securities laws, we encourage you to include such disclosures in future advertisements.

Lee Walzer
Attorney
Securities and Corporate
Practices Division

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## Trust Interpretations

### 262 — August 14, 1991

This is in reply to your letter concerning the *** *** (the bank) prohibited transaction exemption application

Based upon the information you provided, the proposed transaction does not comply with national banking law. A national bank does have a duty to remedy a breach of fiduciary responsibility. However, that duty does not extend to guaranteeing the investment performance of a fiduciary account. There is nothing in the materials to show that the bank is purchasing the plan assets because the bank has incurred a legal obligation to do so.

The bank proposes to purchase the remaining assets of a collective investment fund. The purchase would help the expeditious liquidation of the fund, providing the fund with cash proceeds expected to exceed the fair market value of the assets being purchased. The remaining fund assets include mortgages and real property. A portion of the mortgages are in default. The real property represents property obtained by the fund as a result of foreclosure.

Property held by a national bank as fiduciary must not be sold or transferred to the bank unless counsel has advised the bank that it has incurred as fiduciary a contingent or potential liability. See 12 CFR 9.12(b)(2). The materials submitted do not indicate that the bank has incurred a fiduciary liability as a result of its management of the collective fund. The bank is purchasing assets at a value that is a premium over fair market value and will provide the plans with cash to invest at potentially higher yields. Although the proposed transaction may be advantageous to participating employee benefit plans, the bank's voluntary purchase has an immediate adverse financial impact on the bank. The materials provide no legal justification for the bank to dissipate the corporation's assets.

The assets to be purchased by the bank include real estate. A national bank may only purchase and hold real estate under certain limited situations. See 12 U.S.C. 29. As presented, the bank is purchasing the real estate as a result of its voluntary exercise of discretion. Therefore, the proposed purchase does not fall within the exceptions specifically provided for by the statute.

The bank would be permitted to purchase the real estate if the transaction extinguished liability incurred by the bank as a result of its fiduciary management. The bank does not provide any information that the financial condition of the collective fund is the result of the bank's improper management.

As presented, the bank is purchasing nonconforming assets and other assets at an amount exceeding market value. For such transactions to be permissible, a bank would have to establish that the purchase price bears a substantial relationship to the fiduciary liability incurred. Then the purchase price is reimbursement for damages experienced by the fiduciary account. In the situation where a bank purchases nonconforming assets or assets held in trust at an inflated value, not as a remedy of a breach of trust, the OCC may find the practice to be unsafe and unsound. The OCC may require the national bank to be made whole for any losses arising from an unsafe and unsound transaction.

William L. Granovsky
National Bank Examiner
Compliance Management Department

* * *

## 263 — October 22, 1991

This is in reply to your letter dated September 17, 1991, regarding the Collective Investment Fund for Employee Benefit Plans of ***.

It is our opinion that it would be consistent with the requirements of 12 CFR 9.18(a)(2) for deferred compensation plans maintained by state and local governmental units under the Internal Revenue Code (IRC) 457 to participate in a group trust meeting the requirements of Revenue Ruling 81-100.

Funds held by a national bank may be invested collectively in a fund consisting solely of assets of retirement, pension, profit sharing, stock bonus, or other trusts which are exempt from federal income taxation under the Internal Revenue Code. See 12 CFR 9.18(a)(2). IRC 401(a)(24) provides:

> Any group trust which otherwise meets the requirements of this section shall not be treated as not meeting such requirements on account of participation or inclusion in such trust of the moneys of any plan or governmental unit described in section 818(a)(6).

IRC 818(a)(6)(A) describes:

> . . . a governmental plan (within the meaning of section 414(d)) or an eligible deferred compensation plan (within the meaning of section 457(b)) . . .

The bank proposes that its amendment to the fund would limit participation to deferred compensation plans maintained by state and local government units under section 457. The amendment to the fund would require that the administrator of a governmental section 457 plan, as a condition of participation in the fund represent in writing that

1) the section 457 plan is for the exclusive benefit of its participants or their beneficiary,

2) the purpose of the plan is the distribution of corpus and income funds, if any, accumulated under the plan to the plan's participants or their beneficiaries; and

3) no part of the corpus or income of the plan shall be used or diverted for any purpose other than the exclusive benefit of its participants or their beneficiaries prior to the satisfaction of all the plan's liabilities to such participants and beneficiaries, except that, solely to the extent necessary to retain qualifications under IRC 457, such assets shall remain subject to the claims of the general creditors of the plan sponsor.

Based upon the facts presented, it is our opinion that section 457 plans established by governmental units may be invested collectively under 12 CFR 9.18(a)(2) as a group fund. Because this position is based upon the representations in your letter, different facts or conditions might require different conclusions.

William L. Granovsky
National Bank Examiner
Compliance Management Department

* * *

# Mergers — January 1 to March 31, 1992

Mergers consummated involving two or more operating banks.

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## Alabama

February 14, 1992:
Southtrust Bank of Calhoun County, National Association, Anniston, Alabama, and
Southtrust Bank of Cleburne County, National Association, Heflin, Alabama
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## Arizona

February 27, 1992:
The Valley National Bank of Arizona, Phoenix, Arizona, and
Columbia Bank, Avondale, Arizona
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## Arkansas

January 1, 1992:
Union National Bank of Arkansas, Little Rock, Arkansas, and
Union National Bank of Arkansas, Magnolia, Arkansas
Merger . . . . . . . . . 63
February 1, 1992
Worthen National Bank of Northwest Arkansas, Springdale, Arkansas,and
First National Bank of Fayetteville, Fayetteville, Arkansas
Merger . . . . . . . . . 63

## California

February 28, 1992:
Westamerica Bank, National Association, San Rafael, California, and
John Muir National Bank, Martinez, California
Merger . . . . . . . . . 63

## Colorado

January 23, 1992:
Affiliated National Bank-Boulder, Boulder, Colorado, and
Arapahoe National Bank-Louisville, Louisville, Colorado, and
Affiliated National Bank-Lafayette, Lafayette, Colorado, and
Affiliated National Bank-Arapahoe, Boulder, Colorado
Merger . . . . . . . . . 64
February 20, 1992:
Affiliated National Bank-Colorado Springs, Colorado Springs, Colorado, and
Affiliated National Bank-Austin Bluffs, Colorado Springs, Colorado, and
Affiliated National Bank-Manitou Springs, Manitou Springs, Colorado, and
Affiliated National Bank-Pueblo, Pueblo, Colorado
Merger . . . . . . . . . 64
March 12, 1992:
Affiliated National Bank-Greeley, Greeley, Colorado, and
Affiliated National Bank-South Greeley, Greeley, Colorado, and
Affiliated National Bank-West Greeley, Greeley, Colorado, and
Affiliated National Bank-Ault, Ault, Colorado
Merger . . . . . . . . . 64

## Delaware

February 21, 1992
Beneficial National Bank USA, Wilmington, Delaware, and
Beneficial National Bank USA, Peapack, New Jersey
Merger 64

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## District of Columbia

March 26, 1992:
Industrial Bank of Washington, Washington D C , and
Theodore Roosevelt National Bank Washington, D C
Merger 64

## Florida

February 7, 1992.
Founders National Trust Bank, Ft Myers, Florida and
Merchant National Bank, Fort Myers, Florida
Merger 65
March 11, 1992:
Chemical Bank & Trust Company of Florida, National Association, Palm Beach, Florida, and
Chemical Trust Company of Florida, National Association, Boca Raton, Florida
Merger . . . . . . 65

## Georgia

January 10, 1992:
First National Bank of Paulding County, Dallas, Georgia, and
The Citizens Bank, Dallas, Georgia
Merger . . . . . . . . . 65
March 31, 1992.
NationsBank of Georgia, National Association, Atlanta, Georgia, and
NationsBank Trust Company (Georgia), National Association, Atlanta, Georgia, and
NCNB National Bank, Atlanta, Georgia
Merger . . . . . . . 65

## Idaho

January 27, 1992:
First Security Bank of Idaho, National Association, Boise, Idaho, and
The First National Bank of North Idaho Wallace, Idaho
Merger . . . 65

## Illinois

March 2, 1992.
Boatmen's National Bank of Hillsboro, Hillsboro, Illinois, and
Boatmen's National Bank of Benld, Benld, Illinois
Merger . . 65
March 6, 1992
Magna Bank, National Association, Belleville, Illinois, and
Landmark Bank of Illinois, Fairview Heights, Illinois
Merger . 66

## Indiana

January 1 1992
The American National Bank of Vincennes Vincennes Indiana and
The Patoka National Bank, Patoka Indiana
Merger 66
January 31, 1992
First National Bank of Indiana and Mutual Trust Company New Albany Indiana and
Farmers-Citizens Bank Salem Indiana
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## Iowa

January 1, 1992:
Liberty Bank and Trust, National Association, Fonda, Iowa, and
Liberty Bank & Trust, Palmer, Iowa
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January 19, 1992:
Bettendorf Bank, National Association, Bettendorf, Iowa, and
Davenport Bank and Trust Company, Davenport, Iowa
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March 2, 1992:
United National Bank of Iowa, Sidney, Iowa, and
American National Bank, Bedford, Iowa
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## Kansas

February 3, 1992:
The Farmers National Bank of Oberlin, Oberlin, Kansas, and
The Citizens State Bank, Norcatur, Kansas
Merger 67
February 24, 1992:
The Citizens National Bank of Greenleaf, Greenleaf, Kansas, and
Cloud County Bank & Trust, Concordia, Kansas
Merger 67

## Louisiana

January 1, 1992:
First National Bank of St. Martin, St. Martinsville, Louisiana, and
Citizens National Bank of Breaux Bridge, Breaux Bridge, Louisiana
Merger 68
February 1, 1992:
First Acadiana National Bank, Opelousas, Louisiana, and
Bank of Iberia, New Iberia, Louisiana
Merger 68

## Massachusetts

March 6, 1992:
The First National Bank of Boston, Boston, Massachusetts, and
New Heritage Bank, Lawrence, Massachusetts
Merger 68
March 27, 1992:
Fleet Bank of Massachusetts, National Association, Boston, Massachusetts, and
Vanguard Savings Bank, Holyoke, Massachusetts
Merger 68

## Minnesota

January 24, 1992:
The First National Bank of Milaca, Milaca, Minnesota, and
Rural American Bank-Isle, Isle, Minnesota
Merger 68
January 31, 1992:
The American National Bank of Nashwauk, Nashwauk, Minnesota, and
The First National Bank of Nashwauk, Nashwauk, Minnesota
Merger 69

## Nebraska

February 29, 1992:
Norwest Bank Nebraska, National Association, Omaha, Nebraska, and
The Community Bank of Nebraska, Omaha, Nebraska
Merger 70
March 6, 1992:
The Beatrice National Bank and Trust Company, Beatrice, Nebraska, and
The Pickrell State Bank, Pickrell, Nebraska
Merger 70

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## New Hampshire

January 31, 1992:
The First National Bank of Portsmouth, Portsmouth, New Hampshire, and
Merchants National Bank, Dover, New Hampshire
Merger 71

## New York

January 2, 1992:
The St. Lawrence National Bank, Canton, New York, and
Community National Bank, Addison, New York, and
The Nichols National Bank, Nichols, New York, and
The Exchange National Bank, Olean, New York, and
Horizon Bank, National Association, Waterloo, New York
Merger 71
January 27, 1992:
The National Bank of Stamford, Stamford, New York, and
The National Bank of Roxbury, Roxbury, New York
Merger 71

## Ohio

January 1, 1992:
National City Bank, Akron, Akron, Ohio, and
National City Bank, Northeast, Columbiana, Ohio
Merger 72
February 17, 1992:
Society National Bank, Cleveland, Ohio, and
Society Bank, National Association, Dayton, Ohio
Merger 72

## Oklahoma

January 1, 1992:
First National Bank and Trust Company, Frederick, Oklahoma, and
First National Bank in Hobart, Hobart, Oklahoma
Merger 72
March 19, 1992:
The Union National Bank of Chandler, Chandler, Oklahoma, and
Farmers and Merchants Bank, Tyron, Oklahoma
Merger 72
March 26, 1992:
Rockwell Bank, National Association, Oklahoma City, Oklahoma, and
American Bank of Commerce, Oklahoma City, Oklahoma
Merger 72

## Pennsylvania

January 1, 1992:
Mellon Bank, National Association, Greensburg, Pennsylvania, and
United Penn Bank, Wilkes-Barre, Pennsylvania
Merger 72
March 30, 1992:
First Eastern Bank, National Association, Wilkes-Barre, Pennsylvania, and
Peoples First National Bank and Trust Company, Hazleton, Pennsylvania
Merger 73

## Texas

March 19, 1992:
First Western National Bank, Carrollton, Texas, and
Independence Bank, Plano, Texas
Merger 73

## Virginia

March 31, 1992:
NationsBank of Virginia, National Association, Richmond, Virginia, and
NCNB Virginia, McLean, Virginia
Merger 73

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## Wisconsin

January 1, 1992
- Norwest Bank Wisconsin Green Bay, National Association, Green Bay, Wisconsin, and
- Norwest Bank Wisconsin Northeast, Gillett, Wisconsin, and
- Norwest Bank Wisconsin, New Berlin, Wisconsin, and
- Norwest Bank Wisconsin East Central, Sheboygan, Wisconsin, and
- Norwest Investments and Trust Co , Wisconsin, Sheboygan, Wisconsin, and
- Norwest Bank Wisconsin Appleton, Appleton, Wisconsin
- Merger . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 73

February 24, 1992
- First Wisconsin National Bank of Rice Lake, Rice Lake, Wisconsin, and
- Northwestern State Bank, Cumberland, Wisconsin
- Merger . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 73

# Mergers consummated involving national banks and savings and loan associations.

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## Alabama

March 13, 1992:

AmSouth Bank, National Association, Birmingham, Alabama, and
Jefferson Federal Savings & Loan Association, Birmingham, Alabama
Merger 73

## Arkansas

March 27, 1992:

First National Bank of Wynne, Wynne, Arksansas, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 74
First National Bank of Eastern Arkansas, Forrest City, Arkansas, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 74
First National Bank of Arkansas, Batesville, Arkansas, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 74
First Ozark National Bank, Flippin, Arkansas, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 74
Pine Bluff National Bank, Pine Bluff, Arkansas, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 74
Merchants and Planters Bank, National Association, Camden, Arkansas, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 74
First National Bank of Russellville, Russellville, Arkansas, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 74
Simmons First National Bank, Pine Bluff, Arkansas, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 75
Firstbank, National Association, Bentonville, Arkansas, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 75
The State First National Bank of Texarkana, Texarkana, Arkansas, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 75

## District of Columbia

January 10, 1992:

Crestar Bank, National Association, Washington, D C , and
Perpetual Savings Bank, F S B , Alexandria, Virginia
Merger 75

## Florida

February 7, 1992:

Barnett Bank of Central Florida, National Association, Winter Park, Florida, and
United Savings of America, F A , Melburne, Florida
Merger 75

March 13, 1992:

First Union National Bank of Florida, Jacksonville, Florida, and
Professional Federal Savings Bank, Coral Gables, Florida
Merger 75

March 27, 1992

First Union National Bank of Florida, Jacksonville, Florida, and
Flagler Federal Savings and Loan Association, Miami, Florida
Merger 75

## Georgia

March 27, 1992

Fidelity National Bank, Decatur, Georgia, and
Federal Savings Bank, Swainsboro, Georgia
Merger 76
Fidelity National Bank, Decatur, Georgia, and
United Federal Savings Bank, Smyrna, Georgia
Merger 76
First National Bank of Cherokee, Woodstock, Georgia, and
United Federal Savings Bank, Marietta, Georgia
Merger 76

## Illinois

March 27, 1992:

First National Bank of Cicero, Cicero, Illinois, and
Olympic Federal Savings Association, Cicero, Illinois
Merger 76
The First National Bank in Robinson, Robinson, Illinois, and
Olympic Federal Savings Association, Cicero, Illinois
Merger 76
The First National Bank of Enfield, Enfield, Illinois, and
Olympic Federal Savings Association, Cicero, Illinois
Merger 76

## Kansas

March 27, 1992:

Bank IV Kansas, National Association, Wichita, Kansas, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 76
First National Bank and Trust, Salina, Kansas, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 77
Exchange National Bank, Marysville, Kansas, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 77

## Louisiana

January 31, 1992:

First National Bank of Commerce, New Orleans, Louisiana, and
Pelican Homestead and Savings Association, Metarie, Louisiana
Merger 77
City National Bank of Baton Rouge, Baton Rouge, Louisiana, and
Pelican Homestead and Savings Association, Metarie, Louisiana
Merger 77

## Maryland

March 20, 1992

Frederick County National Bank, Frederick, Maryland, and
Augusta Federal Savings Association, Baltimore, Maryland
Merger 77
Harford National Bank, Aberdeen, Maryland, and
Augusta Federal Savings Association, Baltimore, Maryland
Merger 77
First National Bank of Maryland, Baltimore, Maryland, and
Augusta Federal Savings Association, Baltimore, Maryland
Merger 77

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## Missouri

March 19, 1992:
Commerce Bank of St. Louis, National Association, Clayton, Missouri, and
New Age Federal Savings Association, St. Louis, Missouri
Merger 78
March 27, 1992:
Mercantile Bank of Joplin, National Association, Joplin, Missouri, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 78
Citizens National Bank of Maryville, Maryville, Missouri, and
Home Federal Savings Association of Kansas City, Kansas City, Missouri
Merger 78

## North Carolina

March 20, 1992:
Southern National Bank of North Carolina, Lumberton, North Carolina, and
Workmen's Federal Savings Bank, Mount Airy, North Carolina
Merger 78

## Oklahoma

March 20, 1992:
The Farmers and Merchants National Bank of Fairview, Fairview, Oklahoma, and
Chisholm Federal Savings and Loan Association of Kingfisher, Kingfisher, Oklahoma
Merger 78
The National Bank of Commerce, Altus, Oklahoma, and
Chisholm Federal Savings and Loan Association of Kingfisher, Kingfisher, Oklahoma
Merger 78
March 27, 1992:
The First National Bank in Marlow, Marlow, Oklahoma, and
Red River Federal Savings and Loan Association, Lawton, Oklahoma
Merger 78

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First National Bank of Altus, Altus, Oklahoma, and
Red River Federal Savings and Loan Association, Lawton, Oklahoma
Merger 79

## Tennessee

March 27, 1992:
Union Planters National Bank, Memphis, Tennessee, and
Metropolitan Federal Savings and Loan Association, Nashville, Tennessee
Merger 79
March 30, 1992:
Union Planters National Bank, Memphis, Tennessee, and
FFSB Interim National Bank, Nashville, Tennessee, and
Fidelity Federal Savings and Loan Association, Nashville, Tennessee
Merger 79

## Texas

March 20, 1992:
First National Bank at Lubbock, Lubbock, Texas, and
First Federal Savings Bank of West Texas, Lubbock, Texas
Merger 79

## Utah

February 28, 1992:
Zions First National Bank, Salt Lake City, Utah, and
Home Savings Bank, F.S.B., Salt Lake City, Utah
Merger 79

## Virginia

March 6, 1992:
The First National Bank of Altavista, Altavista, Virginia, and
Coreast Federal Savings Bank, Altavista, Virginia
Merger 79

## Wisconsin

March 13, 1992:
First National Bank, Waupaca, Wisconsin, and
Monycor Federal Savings Bank, Barron, Wisconsin
Merger 80

A number of transactions in this section do not have an accompanying decision. In those cases, the OCC reviewed the competitive effects of the proposals by using its standard procedures for determining whether the transaction has minimal or no adverse competitive effects. The OCC found the proposals satisfied its criteria for transactions that clearly had no or minimal adverse competitive effects.

* * *

## SOUTHTRUST BANK OF CALHOUN COUNTY, NATIONAL ASSOCIATION, Anniston, Alabama, and Southtrust Bank of Cleburne County, National Association, Heflin, Alabama

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Southtrust Bank of Calhoun County, National Association, Anniston, Alabama (3041), with | $328,621,000 |
| and Southtrust Bank of Cleburne County, National Association, Heflin, Alabama (18737), with | 15,518,000 |
| merged February 14, 1992, under charter and title of the former. The merged bank at date of merger had | 344,139,000 |

* * *

## THE VALLEY NATIONAL BANK OF ARIZONA, Phoenix, Arizona, and Columbia Bank, Avondale, Arizona

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The Valley National Bank of Arizona, Phoenix, Arizona (14324), with | $9,631,944,000 |
| and Columbia Bank, Avondale, Arizona, with | — |
| merged February 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## UNION NATIONAL BANK OF ARKANSAS, Little Rock, Arkansas, and Union National Bank of Arkansas, Magnolia, Arkansas

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Union National Bank of Arkansas, Little Rock, Arkansas (15602), with | $567,542,000 |
| and Union National Bank of Arkansas, Magnolia, Arkansas (21287), with | 28,159,000 |
| merged January 1, 1992, under charter and title of the former. The merged bank at date of merger had | 595,659,000 |

* * *

## WORTHEN NATIONAL BANK OF NORTHWEST ARKANSAS, Springdale, Arkansas, and First National Bank of Fayetteville, Fayetteville, Arkansas

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Worthen National Bank of Northwest Arkansas, Springdale, Arkansas (18781), with | $168,158,000 |
| and First National Bank of Fayetteville, Fayetteville, Arkansas (7346), with | 239,762,000 |
| merged February 1, 1992, under charter and title of the former. The merged bank at date of merger had | 430,920,000 |

* * *

## WESTAMERICA BANK, NATIONAL ASSOCIATION, San Rafael, California, and John Muir National Bank, Martinez, California

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Westamerica Bank, National Association, San Rafael, California (11282), with | $1,290,395,000 |
| and John Muir National Bank, Martinez, California (18565), with | 55,819,000 |
| merged February 28, 1992, under charter and title of the former. The merged bank at date of merger had | 1,346,214,000 |

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*Real mergers include the merger, consolidation, or purchase and assumption of operating banks or savings and loan associations, or branches of operating banks or savings and loan associations where the resultant bank is a national bank.*

## AFFILIATED NATIONAL BANK-BOULDER,
## Boulder Colorado, and Arapahoe National Bank-Louisville, Louisville, Colorado, and Affiliated National Bank-Lafayette, Lafayette, Colorado, and Affiliated National Bank-Arapahoe, Boulder, Colorado

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Affiliated National Bank Boulder, Boulder, Colorado (14021), with | $366,036,000 |
| and Arapahoe National Bank Louisville, Louisville, Colorado (15016), with | 36,244,000 |
| and Affiliated National Bank Lafayette, Lafayette, Colorado (15017), with | 34,428,000 |
| and Affiliated National Bank Arapahoe, Boulder, Colorado (14920), with | 86,337,000 |
| merged January 23, 1992, under charter 14021 and title "Affiliated National Bank-Boulder." The merged bank at date of merger had | 523,047,000 |

* * *

## AFFILIATED NATIONAL BANK-COLORADO SPRINGS,
## Colorado Springs, Colorado, and Affiliated National Bank-Austin Bluffs, Colorado Springs, Colorado, and Affiliated National Bank-Manitou Springs, Manitou Springs, Colorado, and Affiliated National Bank-Pueblo, Pueblo, Colorado

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Affiliated National Bank-Colorado Springs, Colorado Springs, Colorado (2179), with | $426,379,000 |
| and Affiliated National Bank-Austin Bluffs, Colorado Springs, Colorado (17090), with | 25,582,000 |
| and Affiliated National Bank-Manitou Springs, Manitou Springs, Colorado (22023), with | 16,346,000 |
| and Affiliated National Bank-Pueblo, Pueblo, Colorado (17108), with | 11,515,000 |
| merged February 20, 1992, under charter 2179 and title "Affiliated National Bank-Colorado Springs." The merged bank at date of merger had | 479,824,000 |

* * *

## AFFILIATED NATIONAL BANK-GREELEY,
## Greeley, Colorado, and Affiliated National Bank-South Greeley, Greeley, Colorado, and Affiliated National Bank-West Greeley, Greeley, Colorado, and Affiliated National Bank-Ault, Ault, Colorado

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Affiliated National Bank-Greeley, Greeley, Colorado (13928), with | $145,375,000 |
| and Affiliated National Bank-South Greeley, Greeley, Colorado (14969), with | 40,445,000 |
| and Affiliated National Bank-West Greeley, Greeley, Colorado (15119), with | 29,459,000 |
| and Affiliated National Bank-Ault, Ault, Colorado (8167), with | 31,544,000 |
| merged March 12, 1992, under charter 13928 and title "Affiliated National Bank-Greeley." The merged bank at date of merger had | 246,825,000 |

* * *

## BENEFICIAL NATIONAL BANK USA,
## Wilmington, Delaware, and Beneficial National Bank USA, Peapack, New Jersey

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Beneficial National Bank USA, Wilmington, Delaware (22474), with | $240,000,000 |
| and Beneficial National Bank USA, Peapack, New Jersey (22160), with | 407,279,000 |
| merged February 21, 1992, under charter and title of the former. The merged bank at date of merger had | 417,519,000,000 |

* * *

## INDUSTRIAL BANK OF WASHINGTON,
## Washington, D.C., and Theodore Roosevelt National Bank, Washington, D.C.

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Industrial Bank of Washington, Washington, D.C. (90012), with | $165,062,000 |
| and Theodore Roosevelt National Bank, Washington, D.C. (21647), with | — |
| merged March 26, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FOUNDERS NATIONAL TRUST BANK, Ft. Myers, Florida, and Merchant National Bank, Fort Myers, Florida

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Founders National Trust Bank, Ft. Myers, Florida (20986), with | $24,447,000 |
| and Merchant National Bank, Fort Myers, Florida (21546), with | — |
| merged February 7, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## CHEMICAL BANK & TRUST COMPANY OF FLORIDA, NATIONAL ASSOCIATION, Palm Beach, Florida, and Chemical Trust Company of Florida, National Association, Boca Raton, Florida

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Chemical Bank & Trust Company of Florida, National Association, Palm Beach, Florida (17323), with | $43,580,000 |
| and Chemical Trust Company of Florida, National Association, Boca Raton, Florida (20487), with | 737,000 |
| merged March 11, 1992, under charter and title of the former. The merged bank at date of merger had | 44,257,000 |

* * *

## FIRST NATIONAL BANK OF PAULDING COUNTY, Dallas, Georgia, and The Citizens Bank, Dallas, Georgia

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank of Paulding County, Dallas, Georgia (12105), with | $124,642,000 |
| and The Citizens Bank, Dallas, Georgia, with | — |
| merged January 10, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## NATIONSBANK OF GEORGIA, NATIONAL ASSOCIATION, Atlanta, Georgia, and NationsBank Trust Company (Georgia), National Association, Atlanta, Georgia, and NCNB National Bank, Atlanta, Georgia

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| NationsBank of Georgia, National Association, Atlanta, Georgia (13068), with | $12,966,000,000 |
| and NationsBank Trust Company (Georgia), National Association, Atlanta, Georgia (21256), with | 61,000,000 |
| and NCNB National Bank, Atlanta, Georgia (14678), with | 307,000,000 |
| merged March 31, 1992, under charter 13068 and title "Nationsbank of Georgia, National Association." The merged bank at date of merger had | 13,312,000,000 |

* * *

## FIRST SECURITY BANK OF IDAHO, NATIONAL ASSOCIATION, Boise, Idaho, and The First National Bank of North Idaho, Wallace, Idaho

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First Security Bank of Idaho, National Association, Boise, Idaho (14444), with | $2,496,831,000 |
| and The First National Bank of North Idaho, Wallace, Idaho (4773), with | 157,142,000 |
| merged January 27, 1992, under charter and title of the former. The merged bank at date of merger had | 2,653,973,000 |

* * *

## BOATMEN'S NATIONAL BANK OF HILLSBORO, Hillsboro, Illinois, and Boatmen's National Bank of Benld, Benld, Illinois

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Boatmen's National Bank of Hillsboro, Hillsboro, Illinois (20789), with | $75,257,000 |
| and Boatmen's National Bank of Benld, Benld, Illinois (7728), with | 45,568,000 |
| merged March 2, 1992, under charter and title of the former. The merged bank at date of merger had | 120,825,000 |

* * *

## MAGNA BANK, NATIONAL ASSOCIATION, Belleville, Illinois, and Landmark Bank of Illinois, Fairview Heights, Illinois

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Magna Bank, National Association, Belleville, Illinois (2154), with | $883,690,000 |
| and Landmark Bank of Illinois, Fairview Heights, Illinois with | 210,982,000 |
| merged March 6, 1992, under charter and title of the former. The merged bank at date of merger had | 1,094,672,000 |

* * *

## THE AMERICAN NATIONAL BANK OF VINCENNES, Vincennes, Indiana, and The Patoka National Bank, Patoka, Indiana

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The American National Bank of Vincennes, Vincennes, Indiana (3864), with | $264,957,000 |
| and The Patoka National Bank, Patoka, Indiana (9352), with | 17,360,000 |
| merged January 1, 1992, under charter and title of the former. The merged bank at date of merger had | 282,317,000 |

* * *

## FIRST NATIONAL BANK OF INDIANA AND MUTUAL TRUST COMPANY, New Albany, Indiana, and Farmers-Citizens Bank, Salem, Indiana

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank of Indiana and Mutual Trust Company, New Albany, Indiana (21723), with | $155,204,000 |
| and Farmers-Citizens Bank, Salem, Indiana, with | 121,062,000 |
| merged January 31, 1992, under charter and title of the former. The merged bank at date of merger had | 274,266,000 |

* * *

## LIBERTY BANK AND TRUST, NATIONAL ASSOCIATION, Fonda, Iowa, and Liberty Bank & Trust, Palmer, Iowa

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Liberty Bank and Trust, National Association, Fonda, Iowa (6550), with | $13,822,000 |
| and Liberty Bank & Trust, Palmer, Iowa, with | 11,367,000 |
| merged January 1, 1992, under charter and title of the former. The merged bank at date of merger had | 25,189,000 |

* * *

## BETTENDORF BANK, NATIONAL ASSOCIATION, Bettendorf, Iowa, and Davenport Bank and Trust Company, Davenport, Iowa

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Bettendorf Bank, National Association, Bettendorf, Iowa (18462), with | $103,186,000 |
| and Davenport Bank and Trust Company, Davenport, Iowa, with | 1,866,015,000 |
| merged January 19, 1992, under charter 18462 and title "Davenport Bank and Trust Company, National Association." The merged bank at date of merger had | 1,962,426,000 |

* * *

### COMPTROLLER'S DECISION

On August 30, 1991, an application was filed with the Office of the Comptroller of the Currency (OCC) to consolidate Bettendorf Bank, National Association, Bettendorf, Iowa (Bettendorf Bank) and Davenport Bank and Trust Company, Davenport, Iowa (Davenport Bank). The application is based upon a written agreement executed by the banks on July 22, 1991.

As of September 30, 1991, Bettendorf Bank, a wholly owned subsidiary of Norwest Corporation, Minneapolis, Minnesota, held total deposits of $83 million and operated three offices. Davenport Bank held total deposits of $1 billion and operated five offices as of the same date.

The relevant geographic market for this proposal is the Bettendorf - Davenport urban complex. This is the area where both banks compete and derive the bulk of their deposits. Within this market, there are fifteen banks and five savings and loan associations competing for total market deposits of approximately $2.8 billion.

Davenport Bank is the largest depository in the market with 37 percent of the deposits, and Bettendorf Bank is the seventh largest with 3 percent of the deposits. After consummation of this proposal, the resulting institution would become the largest depository in the relevant market with 40 percent of the local market deposits. While the proposed merger would eliminate direct competition between the two financial institutions, any adverse effects would be mitigated by the presence of numerous banking alternatives, both in the relevant and adjacent markets, including the presence of two banks affiliated with large multi-bank holding companies.

The Bank Merger Act requires the OCC to consider "...the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the communities to be served." We find that the financial and managerial resources do not raise concerns that would cause the application to be disapproved. The future prospects of the resulting bank are favorable, as are the effects of the proposal on the convenience and needs of the general public to be served.

A review of the record of this application and other information available to the OCC as a result of its regulatory responsibilities revealed no evidence that the applicants' record of helping to meet credit needs of their communities, including low- and moderate-income neighborhoods, is less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) and find that it does not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

December 17, 1991

## SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

## UNITED NATIONAL BANK OF IOWA,
## Sidney, Iowa, and American National Bank, Bedford, Iowa

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| United National Bank of Iowa, Sidney, Iowa (18059), with | $9,230,000 |
| and American National Bank, Bedford, Iowa (21239), with | 17,668,000 |
| merged March 2, 1992, under charter and title of the former. The merged bank at date of merger had | 26,898,000 |

* * *

## THE FARMERS NATIONAL BANK OF OBERLIN,
## Oberlin, Kansas, and The Citizens State Bank, Norcatur, Kansas

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The Farmers National Bank of Oberlin, Oberlin, Kansas (7298), with | $46,253,000 |
| and The Citizens State Bank, Norcatur, Kansas, with | 11,815,000 |
| merged February 3, 1992, under charter and title of the former. The merged bank at date of merger had | 57,684,000 |

* * *

## THE CITIZENS NATIONAL BANK OF GREENLEAF,
## Greenleaf, Kansas, and Cloud County Bank & Trust, Concordia, Kansas

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The Citizens National Bank of Greenleaf, Greenleaf, Kansas (10789), with | $25,340,000 |
| and Cloud County Bank & Trust, Concordia, Kansas, with | 66,098,000 |
| merged February 24, 1992, under charter and title of the former. The merged bank at date of merger had | 92,157,000 |

* * *

### FIRST NATIONAL BANK OF ST. MARTIN, St. Martinville, Louisiana, and Citizens National Bank of Breaux Bridge, Breaux Bridge, Louisiana

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank of St. Martin, St. Martinville, Louisiana (17927), with | $26,909,000 |
| and Citizens National Bank of Breaux Bridge, Breaux Bridge, Louisiana (17765), with | 16,500,000 |
| merged January 1, 1992, under charter and title of the former. The merged bank at date of merger had | 43,169,000 |

* * *

### FIRST ACADIANA NATIONAL BANK, Opelousas, Louisiana, and Bank of Iberia, New Iberia, Louisiana

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First Acadiana National Bank, Opelousas, Louisiana (16200), with | $162,448,000 |
| and Bank of Iberia, New Iberia, Louisiana, with | 26,770,000 |
| merged February 1, 1992, under charter and title of the former. The merged bank at date of merger had | 189,485,000 |

* * *

### THE FIRST NATIONAL BANK OF BOSTON, Boston, Massachusetts, and New Heritage Bank, Lawrence, Massachusetts

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The First National Bank of Boston, Boston, Massachusetts (200), with | $26,197,504,000 |
| and New Heritage Bank, Lawrence, Massachusetts, with | — |
| merged March 6, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

### FLEET BANK OF MASSACHUSETTS, NATIONAL ASSOCIATION, Boston, Massachusetts, and Vanguard Savings Bank, Holyoke, Massachusetts

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Fleet Bank of Massachusetts, National Association, Boston, Massachusetts (18677), with | $7,184,000 |
| and Vanguard Savings Bank, Holyoke, Massachusetts, with | 412,000 |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | 7,596,000 |

* * *

### THE FIRST NATIONAL BANK OF MILACA, Milaca, Minnesota, and Rural American Bank-Isle, Isle, Minnesota

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The First National Bank of Milaca, Milaca, Minnesota (9050), with | $45,332,000 |
| and Rural American Bank-Isle, Isle, Minnesota, with | 16,319,000 |
| merged January 24, 1992, under charter and title of the former. The merged bank at date of merger had | 60,368,000 |

* * *

### COMPTROLLER'S DECISION

On August 15, 1991, application was made to the Office of the Comptroller of the Currency (OCC) for prior authorization to merge Rural American Bank–Isle, Isle, Minnesota (Rural American) with and into First National Bank of Milaca, Milaca, Minnesota (First National). The application is based on an agreement entered into by the proponents on June 21, 1991.

As of June 30, 1991, Rural American held total deposits of $15 million. Rural American is wholly owned by Frandsen Financial Corporation. As of the same date, First National, an independent bank, held total deposits of $40 million.

The relevant geographic market for this proposal is the area including and immediately surrounding Isle. This is the area where Rural American, the bank to be acquired, derives the bulk of its deposits. First National operates in an adjacent market. While First National's market is contiguous to the market of Rural American, First National derives only a nominal amount of deposits from the relevant market. Therefore, consummation of this proposal would merely replace one competitor in the relevant market with another, with no significant anticompetitive effects.

The Bank Merger Act requires the OCC to consider "...the financial and managerial resources and future prospects of the existing and proposed institutions, and the convenience and needs of the communities to be served." We find that the financial and managerial resources of both banks do not raise concerns that would cause the application to be denied. The future prospects for the resulting bank are favorable, as are the effects of the proposal on the convenience and needs of the general public to be served.

A review of the record of this application and other information available to the OCC as a result of its regulatory responsibilities revealed no evidence that First National's record of helping to meet the credit needs of its community, including low- and moderate-income neighborhoods, is less than satisfactory. It was noted that Rural American had a less than satisfactory performance record under the Community Reinvestment Act (CRA). The application reflects a commitment by First National to expand its community delineation to include the market served by Rural American, and to serve the market consistent with the policies of First National.

We have analyzed this proposal pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) and find that it will not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

November 18, 1991

## SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

## THE AMERICAN NATIONAL BANK OF NASHWAUK, Nashwauk, Minnesota, and The First National Bank of Nashwauk, Nashwauk, Minnesota

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The American National Bank of Nashwauk, Nashwauk, Minnesota (11579), with | $9,822,000 |
| and The First National Bank of Nashwauk, Nashwauk, Minnesota (10736), with | 6,924,000 |
| merged January 31, 1992, under charter and title of the former. The merged bank at date of merger had | 16,375,000 |

* * *

## COMPTROLLER'S DECISION

On April 9, 1991, application was made to the Office of the Comptroller of the Currency (OCC) for prior authorization to merge The First National Bank of Nashwauk, Nashwauk, Minnesota (First National), with and into The American National Bank of Nashwauk, Nashwauk, Minnesota (American). The application is based on an agreement entered into by the proponents on February 5, 1991.

As of March 31, 1991, First National, an independent bank, held total deposits of $6 million and operated from its sole Nashwauk office. As of the same date, American held total deposits of $9 million and operated from its sole office in Nashwauk. American is controlled by American National Agency, Inc.

The relevant geographic market for this proposal is the area including and immediately surrounding Nashwauk. This is a rural area with a population of approximately 2,500. In light of the small population, the OCC considers such a small geographic and demographic market to be de minimis from a competitive standpoint. (See Decision of the Comptroller on the application to merge The National Bank and Trust Company of Norwich, Norwich, New York, with National Bank of Oxford, Oxford, New York, dated April 3, 1983).

Nonetheless, there are three commercial banks competing in the relevant geographic market with First National and American, holding shares of 24 percent and 33 percent, respectively, of market deposits. Consummation of this transaction will result in American becoming the largest competitor, among two remaining in the relevant market, with a share of 57 percent. The anticompetitive effects of this proposal are mitigated by the presence of several commercial banks in the Grand Rapids market just 15 miles southwest of Nashwauk and the Hibbing market just 11 miles northeast of Nashwauk. Accordingly, consummation of the proposal will not have a significantly adverse effect upon competition in the relevant geographic market.

The Bank Merger Act requires the OCC to consider ... the financial and managerial resources and future prospects of the existing and proposed institutions, and the convenience and needs of the communities to be served. American has the financial and managerial resources to consummate the transaction without adversely affecting its overall condition. The future prospects for the resulting bank are favorable, as are the effects of the proposal on the convenience and needs of the general public to be served.

A review of the record of this application and other information available to the OCC as a result of its regulatory responsibilities revealed no evidence that the applicants' record of helping to meet the credit needs of its community, including low- and moderate-income neighborhoods, is less than satisfactory.

We have analyzed this proposal pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) and find that it will not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved subject to conditions conveyed to the applicant in a separate communication.

August 19, 1991

## SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

## NORWEST BANK NEBRASKA, NATIONAL ASSOCIATION, Omaha, Nebraska, and The Community Bank of Nebraska, Omaha, Nebraska

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Norwest Bank Nebraska, National Association, Omaha, Nebraska (2978), with | $1,799,323,000 |
| and The Community Bank of Nebraska, Omaha, Nebraska, with | 6,617,000 |
| merged February 29, 1992, under charter and title of the former. The merged bank at date of merger had | 1,805,940,000 |

* * *

## COMPTROLLER'S DECISION

On January 14, 1992, the Office of the Comptroller of the Currency (OCC) received a completed application from Norwest Bank Nebraska, National Association, Omaha, Nebraska, (Norwest) to purchase certain of the assets and assume certain of the liabilities of Community Bank of Nebraska, Omaha, Nebraska (Community). The application is a result of a written agreement executed by the banks on October 23, 1991.

As of September 30, 1991, Norwest, a wholly owned subsidiary of Norwest Corporation, Minneapolis, Minnesota, held total deposits of $899 million and operated seven offices. Community held total deposits of $6.5 million and operated only one office as of the same date.

The relevant geographic market for this proposal is the area including and immediately surrounding the city of Omaha. This is the area where both banks compete and derive the bulk of their deposits. Within this market, there are nineteen commercial banks and six savings and loan associations competing for total market deposits of approximately $4.3 billion.

Norwest is the second largest depository in the market with 20 percent of the deposits, and Community is the second smallest with less than one-half of one percent of the deposits. After consummation of this proposal, the resulting institution would remain the second largest depository in the relevant market with approximately 21 percent of the local market deposits.

While the proposed merger would eliminate direct competition between the two financial institutions, any adverse effects would be mitigated by the presence of numerous banking alternatives.

The Bank Merger Act requires the OCC to consider "...the financial and managerial resources and future prospects of the existing and proposed institutions, and the convenience and needs of the communities to be served." We find that the financial and managerial resources of the acquiring bank do not raise concerns that would cause the application to be disapproved. The future prospects for the resulting bank are favorable, as are the effects of the proposal on the convenience and needs of the general public to be served.

A review of the record of this application and other information available to the OCC as a result of its regulatory responsibilities revealed no evidence that Norwest's record of helping to meet the credit needs of its community, including low- and moderate-income neighborhoods, is less than satisfactory. It was noted that Community had a less than satisfactory record of performance under the Community Reinvestment Act (CRA). The application reflects plans by Norwest to expand services in the markets previously served by Community, and to serve those markets consistent with current Norwest policies.

We have reviewed this proposal pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) and find that it will not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved January 31, 1992

## SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

## THE BEATRICE NATIONAL BANK AND TRUST COMPANY,
## Beatrice, Nebraska, and Pickrell State Bank, Pickrell, Nebraska

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The Beatrice National Bank and Trust Company, Beatrice, Nebraska (3081), with | $72,260,000 |
| and Pickrell State Bank, Pickrell, Nebraska, with | 6,582,000 |
| merged March 9, 1992, under charter and title of the former. The merged bank at date of merger had | 78,842,000 |

* * *

## THE FIRST NATIONAL BANK OF PORTSMOUTH,
## Portsmouth, New Hampshire, and Merchants National Bank, Dover, New Hampshire

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The First National Bank of Portsmouth, Portsmouth, New Hampshire (19), with | $218,165,000 |
| and Merchants National Bank, Dover, New Hampshire (5274), with | 58,913,000 |
| merged January 31, 1992, under charter and title of the former. The merged bank at date of merger had | 277,077,000 |

* * *

## THE ST. LAWRENCE NATIONAL BANK,
## Canton, New York, and Community National Bank, Addison, New York, and The Nichols National Bank, Nichols, New York, and The Exchange National Bank, Olean, New York, and Horizon Bank, National Association, Waterloo, New York

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The St. Lawrence National Bank, Canton, New York (8531), with | $308,020,000 |
| and Community National Bank, Addison, New York (5178), with | 77,434,000 |
| and The Nichols National Bank, Nichols, New York (9399), with | 22,004,000 |
| and The Exchange National Bank, Olean, New York (18272), with | 115,930,000 |
| and Horizon Bank, National Association, Waterloo, New York (7840), with | 92,533,000 |
| merged January 2, 1992, under charter 8531 and title "Community Bank, National Association." The merged bank at date of merger had | 630,233,000 |

* * *

## THE NATIONAL BANK OF STAMFORD,
## Stamford, New York, and The National Bank of Roxbury, Roxbury, New York

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The National Bank of Stamford, Stamford, New York (2602), with | $73,413,000 |
| and The National Bank of Roxbury, Roxbury, New York (7678), with | 5,307,000 |
| merged January 27, 1992, under charter and title of the former. The merged bank at date of merger had | 77,887,000 |

* * *

### NATIONAL CITY BANK, AKRON, Akron, Ohio, and National City Bank, Northeast, Columbiana, Ohio

| Names of institutions and type of transaction | Total assets |
|---|---|
| National City Bank, Akron, Akron, Ohio (17393), with | $1,104,900,000 |
| and National City Bank, Northeast, Columbiana, Ohio (15694), with | 172,000,000 |
| merged January 1, 1992, under charter 17393 and title "National City Bank, Northeast." The merged bank at date of merger had | 1,276,900,000 |

* * *

### SOCIETY NATIONAL BANK, Cleveland, Ohio, and Society Bank, National Association, Dayton, Ohio

| Names of institutions and type of transaction | Total assets |
|---|---|
| Society National Bank, Cleveland, Ohio (14761), with | $8,328,972,000 |
| and Society Bank, National Association, Dayton, Ohio (10), with | 2,920,093,000 |
| merged February 17, 1992, under charter and title of the former. The merged bank at date of merger had | 11,181,935,000 |

* * *

### FIRST NATIONAL BANK AND TRUST COMPANY, Frederick, Oklahoma, and First National Bank in Hobart, Hobart, Oklahoma

| Names of institutions and type of transaction | Total assets |
|---|---|
| First National Bank and Trust Company, Frederick, Oklahoma (13760), with | $71,082,000 |
| and First National Bank in Hobart, Hobart, Oklahoma (6358), with | 63,105,000 |
| merged January 1, 1992, under charter and title of the former. The merged bank at date of merger had | 134,187,000 |

* * *

### THE UNION NATIONAL BANK OF CHANDLER, Chandler, Oklahoma, and Farmers and Merchants Bank, Tryon, Oklahoma

| Names of institutions and type of transaction | Total assets |
|---|---|
| The Union National Bank of Chandler, Chandler, Oklahoma (6269), with | $32,922,000 |
| and Farmers and Merchants Bank, Tyron, Oklahoma, with | — |
| merged March 19, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

### ROCKWELL BANK, NATIONAL ASSOCIATION, Oklahoma City, Oklahoma, and American Bank of Commerce, Oklahoma City, Oklahoma

| Names of institutions and type of transaction | Total assets |
|---|---|
| Rockwell Bank, National Association, Oklahoma City, Oklahoma (17091), with | $23,487,000 |
| and American Bank of Commerce, Oklahoma City, Oklahoma, with | — |
| merged March 26, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

### MELLON BANK, NATIONAL ASSOCIATION, Greensburg, Pennsylvania, and United Penn Bank, Wilkes-Barre, Pennsylvania

| Names of institutions and type of transaction | Total assets |
|---|---|
| Mellon Bank, National Association, Greensburg, Pennsylvania (6301), with | $25,197,000 |
| and United Penn Bank, Wilkes-Barre, Pennsylvania, with | 1,447,000 |
| merged January 1, 1992, under charter and title of the former. The merged bank at date of merger had | 26,519,000 |

* * *

## FIRST EASTERN BANK, NATIONAL ASSOCIATION, Wilkes-Barre, Pennsylvania, and Peoples First National Bank and Trust Company, Hazleton, Pennsylvania

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First Eastern Bank, National Association, Wilkes-Barre, Pennsylvania (30), with | $2,438,017,000 |
| and Peoples First National Bank and Trust Company, Hazleton, Pennsylvania (3893), with | 365,462,000 |
| merged March 30, 1992, under charter and title of the former. The merged bank at date of merger had | 2,773,136,000 |

* * *

## FIRST WESTERN NATIONAL BANK, Carrollton, Texas, and Independence Bank, Plano, Texas

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First Western National Bank, Carrollton, Texas (17516), with | $134,077,000 |
| and Independence Bank, Plano, Texas, with | — |
| merged March 19, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## NATIONSBANK OF VIRGINIA, NATIONAL ASSOCIATION, Richmond, Virginia, and NCNB Virginia, McLean, Virginia

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| NationsBank of Virginia, National Association, Richmond, Virginia (1111), with | $13,870,000,000 |
| and NCNB Virginia, McLean, Virginia, with | 8,000,000 |
| merged March 31, 1992, under charter and title of the former. The merged bank at date of merger had | 13,878,000,000 |

* * *

## NORWEST BANK WISCONSIN GREEN BAY, NATIONAL ASSOCIATION, Green Bay, Wisconsin, and Norwest Bank Wisconsin Northeast, Gillett, Wisconsin, and Norwest Bank Wisconsin, New Berlin, Wisconsin, and Norwest Bank Wisconsin East Central, Sheboygan, Wisconsin, and Norwest Investments and Trust Co., Wisconsin, Sheboygan, Wisconsin, and Norwest Bank Wisconsin Appleton, Appleton, Wisconsin

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Norwest Bank Wisconsin Green Bay, National Association, Green Bay, Wisconsin (15057), with | $66,641,000 |
| and Norwest Bank Wisconsin Northeast, Gillett, Wisconsin, with | 94,606,000 |
| and Norwest Bank Wisconsin, New Berlin, Wisconsin, with | 454,321,000 |
| and Norwest Bank Wisconsin East Central, Sheboygan, Wisconsin, with | 424,547,000 |
| and Norwest Investments and Trust Co., Wisconsin, Sheboygan, Wisconsin, with | 2,264,000 |
| and Norwest Bank Wisconsin Appleton, Appleton, Wisconsin, with | 107,216,000 |
| merged January 1, 1992, under charter and title of the former. The merged bank at date of merger had | 1,126,595,000 |

* * *

## FIRST WISCONSIN NATIONAL BANK OF RICE LAKE, Rice Lake, Wisconsin, and Northwestern State Bank, Cumberland, Wisconsin

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First Wisconsin National Bank of Rice Lake, Rice Lake, Wisconsin (6663), with | $80,733,000 |
| and Northwestern State Bank, Cumberland, Wisconsin, with | 55,665,000 |
| merged February 24, 1992, under charter and title of the former. The merged bank at date of merger had | 136,398,000 |

* * *

## AMSOUTH BANK, NATIONAL ASSOCIATION, Birmingham, Alabama, and Jefferson Federal Savings & Loan Association, Birmingham, Alabama

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| AmSouth Bank, National Association, Birmingham, Alabama (3185), with | $8,306,804,000 |
| and Jefferson Federal Savings & Loan Association, Birmingham, Alabama, with | — |
| merged March 13, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIRST NATIONAL BANK OF WYNNE, Wynne, Arkansas, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank of Wynne, Wynne, Arkansas (10807), with | $115,062,000 |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIRST NATIONAL BANK OF EASTERN ARKANSAS, Forrest City, Arkansas, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank of Eastern Arkansas, Forrest City, Arkansas (13637), with | $127,275,000 |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIRST NATIONAL BANK OF ARKANSAS, Batesville, Arkansas, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank of Arkansas, Batesville, Arkansas (22543), with | — |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date merger had | — |

* * *

## FIRST OZARK NATIONAL BANK, Flippin, Arkansas, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First Ozark National Bank, Flippin, Arkansas (18552), with | $30,358,000 |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## PINE BLUFF NATIONAL BANK, Pine Bluff, Arkansas, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Pine Bluff National Bank, Pine Bluff, Arkansas (15482), with | $73,640,000 |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## MERCHANTS AND PLANTERS BANK, NATIONAL ASSOCIATION, Camden, Arkansas, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Merchants and Planters Bank, National Association, Camden, Arkansas (18413), with | $71,817,000 |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIRST NATIONAL BANK OF RUSSELLVILLE, Russellville, Arkansas, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank of Russellville, Russellville, Arkansas (16272), with | $160,346,000 |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## SIMMONS FIRST NATIONAL BANK, Pine Bluff, Arkansas, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Simmons First National Bank, Pine Bluff, Arkansas (6680), with | $578,946,000 |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIRSTBANK, NATIONAL ASSOCIATION, Bentonville, Arkansas, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Firstbank, National Association, Bentonville, Arkansas (18327), with | $69,746,000 |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter of the former and title "First National Bank." The merged bank at date of merger had | — |

* * *

## THE STATE FIRST NATIONAL BANK OF TEXARKANA, Texarkana, Arkansas, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The State First National Bank of Texarkana, Texarkana, Arkansas (7138), with | $399,404,000 |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## CRESTAR BANK, NATIONAL ASSOCIATION, Washington, D.C., and Perpetual Savings Bank, F.S.B., Alexandria, Virginia

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Crestar Bank, National Association, Washington, D.C. (15605), with | $1,043,537,000 |
| and Perpetual Savings Bank, F.S.B., Alexandria, Virginia, with | — |
| merged January 10, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## BARNETT BANK OF CENTRAL FLORIDA, NATIONAL ASSOCIATION, Winter Park, Florida, and United Savings of America, F.A., Melbourne, Florida

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Barnett Bank of Central Florida, National Association, Winter Park, Florida (14767), with | $2,615,576,000 |
| and United Savings of America, F.A., Melborune, Florida, with | — |
| merged February 7, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIRST UNION NATIONAL BANK OF FLORIDA, Jacksonville, Florida, and Professional Federal Savings Bank, Coral Gables, Florida

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First Union National Bank of Florida, Jacksonville, Florida (17695), with | $26,607,840,000 |
| and Professional Federal Savings Bank, Coral Gables, Florida, with | — |
| merged March 13, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIRST UNION NATIONAL BANK OF FLORIDA, Jacksonville, Florida, and Flagler Federal Savings and Loan Association, Miami, Florida

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First Union National Bank of Florida, Jacksonville, Florida (17695), with | $26,607,840,000 |
| and Flagler Federal Savings and Loan Association, Miami, Florida, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIDELITY NATIONAL BANK,
## Decatur, Georgia, and Federal Savings Bank, Swainsboro, Georgia

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Fidelity National Bank, Decatur, Georgia (16275), with | $237,412,000 |
| and Federal Savings Bank, Swainsboro, Georgia, with | — |
| merged March 27 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIDELITY NATIONAL BANK,
## Decatur, Georgia, and United Federal Savings Bank, Smyrna, Georgia

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Fidelity National Bank, Smyrna, Georgia (16275), with | $237,412,000 |
| and United Federal Savings Bank, Smyrna, Georgia, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIRST NATIONAL BANK OF CHEROKEE,
## Woodstock, Georgia, and United Federal Savings Bank, Marietta, Georgia

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank of Cherokee, Woodstock, Georgia (21836), with | $24,325,000 |
| and United Federal Savings Bank, Marietta, Georgia, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIRST NATIONAL BANK OF CICERO,
## Cicero, Illinois, and Olympic Federal Savings Association, Cicero, Illinois

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank of Cicero, Cicero, Illinois (11662), with | $220,425,000 |
| and Olympic Federal Savings Association, Cicero, Illinois, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## THE FIRST NATIONAL BANK IN ROBINSON,
## Robinson, Illinois, and Olympic Federal Savings Association, Cicero, Illinois

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The First National Bank in Robinson, Robinson, Illinois (13605), with | $89,499,000 |
| and Olympic Federal Savings Association, Cicero, Illinois, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## THE FIRST NATIONAL BANK OF ENFIELD,
## Enfield, Illinois, and Olympic Federal Savings Association, Cicero, Illinois

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The First National Bank of Enfield, Enfield, Illinois (7948), with | $17,790,000 |
| and Olympic Federal Savings Association, Cicero, Illinois, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## BANK IV KANSAS, NATIONAL ASSOCIATION,
## Wichita, Kansas, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Bank IV Kansas, National Association, Wichita, Kansas (12490), with | $4,139,635,000 |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIRST NATIONAL BANK AND TRUST, Salina, Kansas, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank and Trust, Salina, Kansas (4742), with | $296,336,000 |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## EXCHANGE NATIONAL BANK, Marysville, Kansas, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Exchange National Bank, Marysville, Kansas (18165), with | $77,286,000 |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIRST NATIONAL BANK OF COMMERCE, New Orleans, Louisiana, and Pelican Homestead and Savings Association, Metarie, Louisiana

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank of Commerce, New Orleans, Louisiana (13689), with | $3,123,658,000 |
| and Pelican Homestead and Savings Association, Metarie, Louisiana, with | — |
| merged January 31, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## CITY NATIONAL BANK OF BATON ROUGE, Baton Rouge, Louisiana, and Pelican Homestead and Savings Association, Metarie, Louisiana

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| City National Bank of Baton Rouge, Baton Rouge, Louisiana (13737), with | $774,522,000 |
| and Pelican Homestead and Savings Association, Metarie, Louisiana, with | — |
| merged January 31, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FREDERICK COUNTY NATIONAL BANK, Frederick, Maryland, and Augusta Federal Savings Association, Baltimore, Maryland

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Frederick County National Bank, Frederick, Maryland (13747), with | $340,024,000 |
| and Augusta Federal Savings Association, Baltimore, Maryland, with | — |
| merged March 20, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## HARFORD NATIONAL BANK, Aberdeen, Maryland, and Augusta Federal Savings Association, Baltimore, Maryland

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Harford National Bank, Aberdeen, Maryland (15314), with | $78,568,000 |
| and Augusta Federal Savings Association, Baltimore, Maryland, with | — |
| merged March 20, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIRST NATIONAL BANK OF MARYLAND, Baltimore, Maryland, and Augusta Federal Savings Association, Baltimore, Maryland

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank of Maryland, Baltimore, Maryland (1413) with | $6,738,220,000 |
| and Augusta Federal Savings Association, Baltimore, Maryland, with | — |
| merged March 20, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

### COMMERCE BANK OF ST. LOUIS, NATIONAL ASSOCIATION,
### Clayton, Missouri, and New Age Federal Savings Association, St. Louis, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Commerce Bank of St. Louis, National Association, Clayton, Missouri (16945), with | $2,535,649,000 |
| and New Age Federal Savings Association, St. Louis, Missouri, with | — |
| merged March 19, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

### MERCANTILE BANK OF JOPLIN, NATIONAL ASSOCIATION,
### Joplin, Missouri, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Mercantile Bank of Joplin, National Association, Joplin, Missouri (13162), with | $315,712,000 |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

### CITIZENS NATIONAL BANK OF MARYVILLE,
### Maryville, Missouri, and Home Federal Savings Association of Kansas City, Kansas City, Missouri

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Citizens National Bank of Maryville, Maryville, Missouri (21815), with | $180,764,000 |
| and Home Federal Savings Association of Kansas City, Kansas City, Missouri, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

### SOUTHERN NATIONAL BANK OF NORTH CAROLINA,
### Lumberton, North Carolina, and Workmen's Federal Savings Bank, Mount Airy, North Carolina

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Southern National Bank of North Carolina, Lumberton, North Carolina (10610), with | $3,019,318,000 |
| and Workmen's Federal Savings Bank, Mount Airy, North Carolina, with | 267,701,000 |
| merged March 20, 1992, under charter and title of the former. The merged bank at date of merger had | 3,292,136,000 |

* * *

### THE FARMERS AND MERCHANTS NATIONAL BANK OF FAIRVIEW,
### Fairview, Oklahoma, and Chisholm Federal Savings and Loan Association of Kingfisher, Kingfisher, Oklahoma

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The Farmers and Merchants National Bank of Fairview, Fairview, Oklahoma (9767), with | $38,627,000 |
| and Chisholm Federal Savings and Loan Association of Kingfisher, Kingfisher, Oklahoma, with | — |
| merged March 20, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

### THE NATIONAL BANK OF COMMERCE,
### Altus, Oklahoma, and Chisholm Federal Savings and Loan Association of Kingfisher, Kingfisher, Oklahoma

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The National Bank of Commerce, Altus, Oklahoma (13756), with | $59,576,000 |
| and Chisholm Federal Savings and Loan Association of Kingfisher, Kingfisher, Oklahoma, with | — |
| merged March 20, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

### THE FIRST NATIONAL BANK IN MARLOW,
### Marlow, Oklahoma, and Red River Federal Savings and Loan Association, Lawton, Oklahoma

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The First National Bank in Marlow, Marlow, Oklahoma (20838), with | $28,358,000 |
| and Red River Federal Savings and Loan Association, Lawton, Oklahoma, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIRST NATIONAL BANK OF ALTUS, Altus, Oklahoma, and Red River Federal Savings and Loan Association, Lawton, Oklahoma

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank of Altus, Altus, Oklahoma (12155), with | $119,026,000 |
| and Red River Federal Savings and Loan Association, Lawton, Oklahoma, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## UNION PLANTERS NATIONAL BANK, Memphis, Tennessee, and Metropolitan Federal Savings and Loan Association, Nashville, Tennessee

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Union Planters National Bank, Memphis, Tennessee (13349), with | $2,208,884,000 |
| and Metropolitan Federal Savings and Loans Association, F.A., Nashville, Tennessee, with | — |
| merged March 27, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## UNION PLANTERS NATIONAL BANK, Memphis, Tennessee, and FFSB Interim National Bank, Nashville, Tennessee, and Fidelity Federal Savings and Loan Association, Nashville, Tennessee

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Union Planters National Bank, Memphis, Tennessee (13349), with | $2,208,884,000 |
| and FFSB Interim National Bank, Nashville, Tennessee (22526), with | 995,970,000 |
| and Fidelity Federal Savings and Loan Association, Nashville, Tennessee, with | — |
| merged March 30, 1992, under charter 13349 and title "Union Planters National Bank." The merged bank at date of merger had | 2,896,867,000 |

* * *

## FIRST NATIONAL BANK AT LUBBOCK, Lubbock, Texas, and First Federal Savings Bank of West Texas, Lubbock, Texas

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank at Lubbock, Lubbock, Texas (14208), with | $853,557,000 |
| and First Federal Savings Bank of West Texas, Lubbock, Texas, with | — |
| merged March 20, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## ZIONS FIRST NATIONAL BANK, Salt Lake City, Utah, and Home Savings Bank, F.S.B., Salt Lake City, Utah

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| Zions First National Bank, Salt Lake City, Utah (4341), with | $3,179,981,000 |
| and Home Savings Bank, F.S.B., Salt Lake City, Utah, with | — |
| merged February 28, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## THE FIRST NATIONAL BANK OF ALTAVISTA, Altavista, Virginia, and Coreast Federal Savings Bank, Altavista, Virginia

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| The First National Bank of Altavista, Altavista, Virginia (9295), with | $94,431,000 |
| and Coreast Federal Savings Bank, Altavista, Virginia | — |
| merged March 6, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

## FIRST NATIONAL BANK,
## Waupaca, Wisconsin, and Monycor Federal Savings Bank, Barron, Wisconsin

| *Names of institutions and type of transaction* | *Total assets* |
|---|---|
| First National Bank, Waupaca, Wisconsin (21610), with | $103,954,000 |
| and Monycor Federal Savings Bank, Barron, Wisconsin, with | — |
| merged March 13, 1992, under charter and title of the former. The merged bank at date of merger had | — |

* * *

# Overview of the Operations and Financial Management of the Office of the Comptroller of the Currency

## Background

The Office of the Comptroller of the Currency (OCC) was established in 1863 as a bureau of the Department of the Treasury. The OCC is headed by the Comptroller, who is appointed by the President, with the advice and consent of the Senate, for a 5-year term.

The OCC regulates national banks by its power to:

- Examine the banks;
- Take supervisory actions against banks that do not conform to laws and regulations or which otherwise engage in unsound banking practices, including the removal of officers, negotiation of agreements to change existing banking practices, and issuance of cease and desist orders;
- Approve or deny applications for new charters, branches, capital or other changes in the banking structure; and,
- Issue rules and regulations concerning banking practices and governing bank lending and investment practices, banking operations and corporate structure.

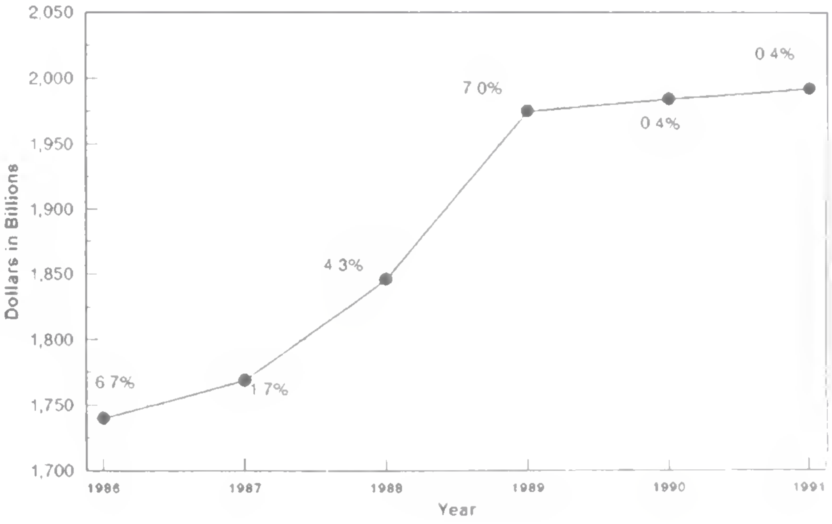
At the end of 1991, there were 3,778 national banks. National banks represent 32 percent of the 11,921 commercial banks in the United States. National banks hold 58 percent of commercial bank assets.

The OCC is headquartered in Washington, D.C. and provides nationwide supervision coverage through six district offices, each headed by a deputy comptroller. In turn, the districts are supported by a network of 17 field offices and 79 duty stations centrally located to institutions under OCC supervision. The OCC had 3,470 employees at the end of 1991.

The OCC is self-funding primarily through assessments on national banks. Assessments are determined by a regressive assessment schedule based upon the assets of national banks. For OCC's assessment income to increase to match costs or address new requirements, bank assets must grow. If assets do not grow, the OCC's revenues do not increase.

As the chart below indicates, bank assets grew little in 1990 and 1991. Slow growth in assets can be attributed to the condition of the industry and to efforts by banks to improve their capital ratios. As a result of slow asset growth, revenue did not increase sufficiently in 1991 to produce adequate revenues to meet OCC expenses, despite an assessment rate increase of 11 percent implemented in January 1991. As a result, the OCC incurred a deficit in 1991 financial operations.

There Was Minimal Growth in National Bank Assets in 1990 and 1991



## Program Performance for 1991

### Bank Supervision

Two major OCC priorities were to accomplish its 1991 examination operating plan goals and to address identified supervision concerns and compliance problems early with supervision/enforcement action appropriate to produce the desired result. The OCC's supervision strategy for the national banking system and individual banks is based on the operating plan. The operating plan provides guidelines for developing supervision strategies based upon the evaluation of the supervisory needs for each bank and the risks that that bank presents to the national banking system.

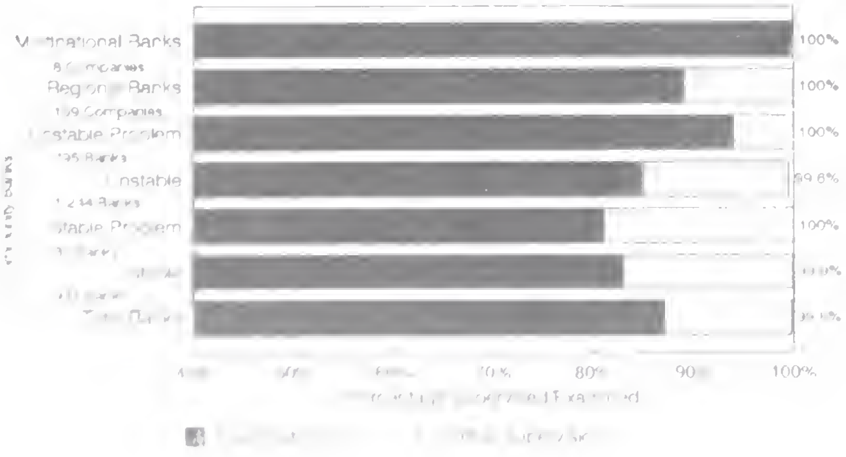
OCC's successful efforts in meeting the 1991 operating plan also demonstrated by the proportion of banks receiving supervision, either examinations or other supervision. These efforts are in addition to the financial data reviews that all banks received during 1991. Resource levels precluded 100 percent of all banks or companies receiving examinations. Consequently, the OCC prioritized carefully the banks that were examined.

The chart below presents the proportion of banks receiving safety and soundness examinations and other supervision by category. Other supervision may be separate from or in addition to a safety and soundness examination and may be a compliance examination, a supervisory review, or work by the resident examiner in the multinational or largest regional banks.

The first two categories, "multinational banks" and "regional banks" are reported on a company basis. They represent the largest banks, all with assets of greater than $1 billion, and all of their smaller, affiliated national banks. Community banks, banks with assets less than $1 billion, are divided into four categories. The first represents the highest supervisory priority and the last, the lowest. Note that a stable problem bank is one that, while troubled, presents relatively low, immediate risk of failing or adversely affecting the system.

Despite the resource constraints, the OCC completed safety and soundness examinations in 87 percent of the banks or companies it supervises. For those banks without an examination, other supervision was performed in 12.8 percent of the banks or companies. As a result, only 0.2 percent of the banks or companies, primarily small community banks, were not the subject of specified supervisory activities in 1991.

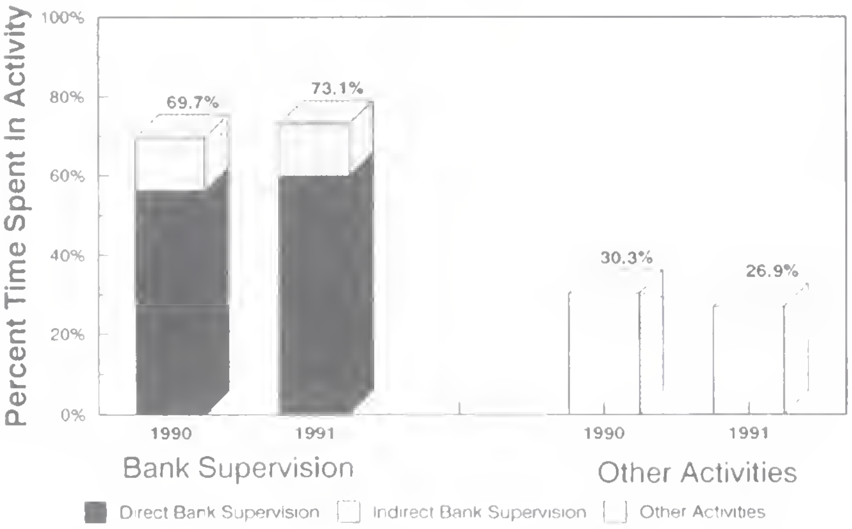
OCC Total Examinations/Total Supervision



One of the OCC's other supervision priorities included devoting increased resources to bank examination through internal reallocation of resources. A 70/30 time utilization standard was implemented where a minimum of 70 percent of district staff time would be spent in supervision, both direct bank supervision, such as examinations, and indirect bank supervision, such as developing bank supervision strategies and policy. A maximum of 30 percent would be allowed in other activities such as training, administration, and legal activities.

The success of these efforts can be seen in the proportion of district staff time dedicated to bank supervision work in 1991. As indicated by the chart below, the OCC devoted greater effort to supervision in 1991 than it did in 1990. Further, the chart indicates that the OCC exceeded the time use standard.

The OCC Devoted More Field Staff Effort to Bank Supervision



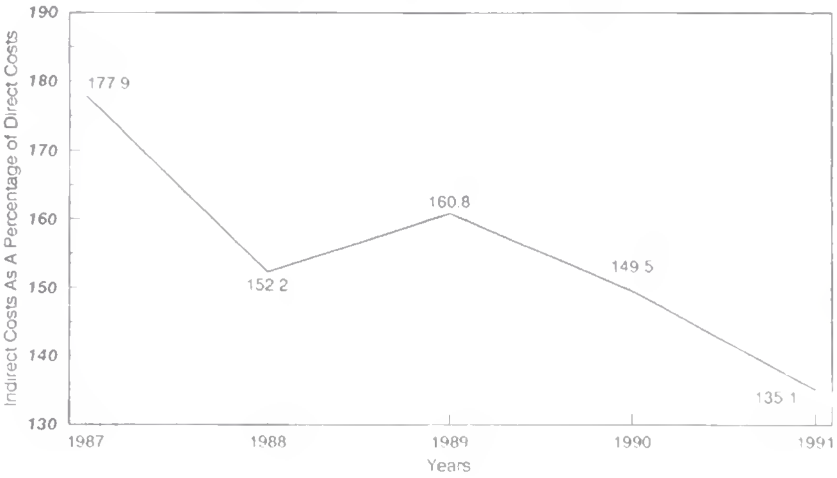
## Operations

One of the OCC's continuing goals is to seek efficiencies in all its activities.

The OCC's indirect rate measures the relationship between the OCC's direct and indirect costs. Direct costs only include salary and travel costs incurred to examine specific banks or groups of banks and to review and decide upon corporate applications, such as new bank charters. Indirect costs are costs incurred within the OCC to perform other bank supervision and analysis work, develop bank supervisory policy, review the bank supervision and examination products, perform legal analysis, bankers outreach, and administration, and conduct training. Indirect costs also include overhead, such as facilities, supplies, telephones, and data processing.

The chart below demonstrates that the OCC has reduced its indirect rate by over 24 percent since 1987 to its current level of 135.1 percent. Specific achievements in 1991 are detailed in the discussion of financial results.

The OCC Has Improved Its Operational Efficiency By Over 24 Percent Since 1987



## Activities that May Require Significant Future Funding

In December 1991, the Congress passed and the President signed the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). This act significantly impacts the OCC. For example, the FDICIA requires that the OCC conduct an annual examination of every national bank. Those in outstanding condition, with assets under $100 million, need to be examined only once every 18 months.

As previously indicated, the OCC was able to devote more resources to bank supervision of national banks in 1991 within existing staffing levels by reallocating time from other activities. The mandated schedule in FDICIA requires all banks, whether part of a holding company or not, to be examined. To meet the examination requirements in FDICIA, the OCC must increase examiner resources by 30 percent and add at least 600 examiners to existing staff over the next two years.

To fund this additional staff to meet the FDICIA requirement, the OCC must increase bank assessments by approximately 30 percent in 1992.

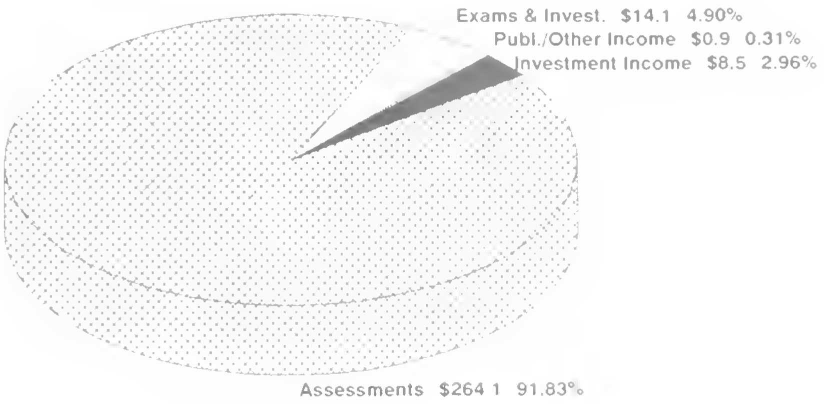
## Financial Results

The following financial statements summarize the OCC's financial position as of December 31, 1991, including the costs of its operations and all significant sources and uses of resources during 1991 and 1990.

OCC revenue was $287.6 million in 1991 and $263 5 million in 1990. Expenses totaled $294 1 million and $263.3 million with resulting net positions of a $6 5 million deficit and $0.2 million surplus, respectively

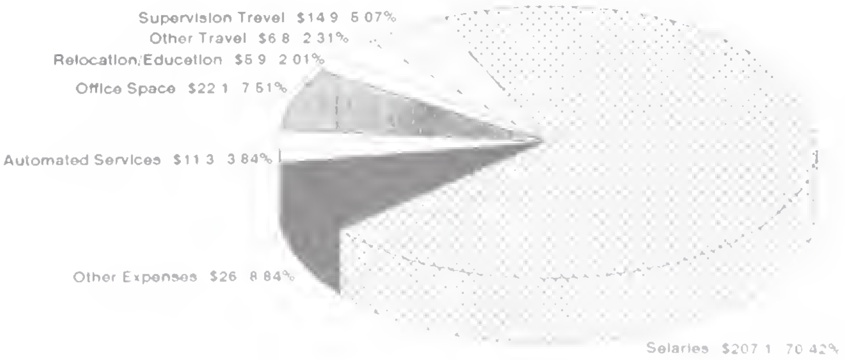
The majority of revenue, 91.8 percent, is realized from assessments on national banks. The remainder is derived from income on investments and miscellaneous fees or charges for activities that the OCC performs.

Composition of 1991 Revenue



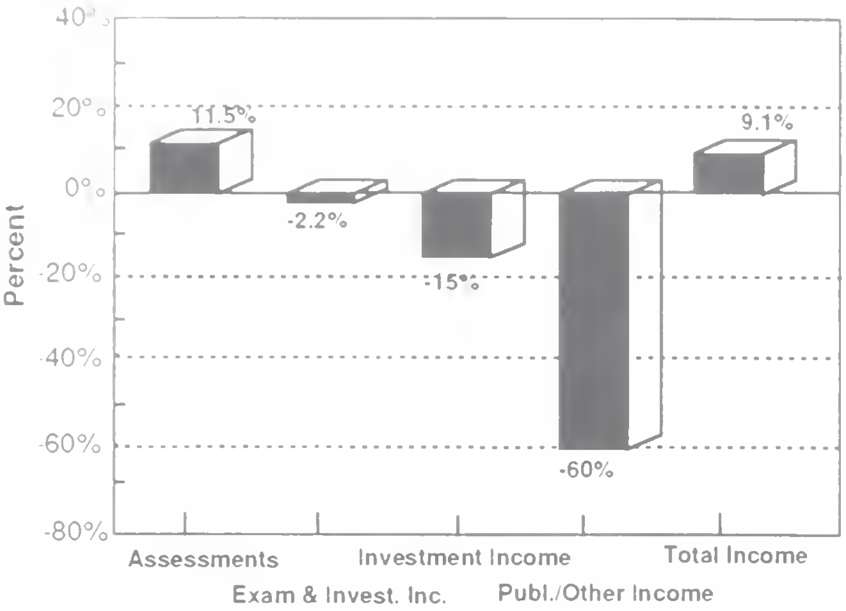
Over 70 percent, or $207 million, of the OCC's expenses are incurred for salaries. The remaining 30 percent includes travel for examinations, other travel, data processing, office space, and other expenses. These expenses supported 3,370 full-time equivalents in 1991, most of which are devoted to carrying out the OCC's bank examination mission and the OCC's priority objectives.

Composition of 1991 Expenses



The chart below indicates the variance comparison for 1991 comparing the revenue and expenses to 1990.

1991 Revenue Changes from 1990



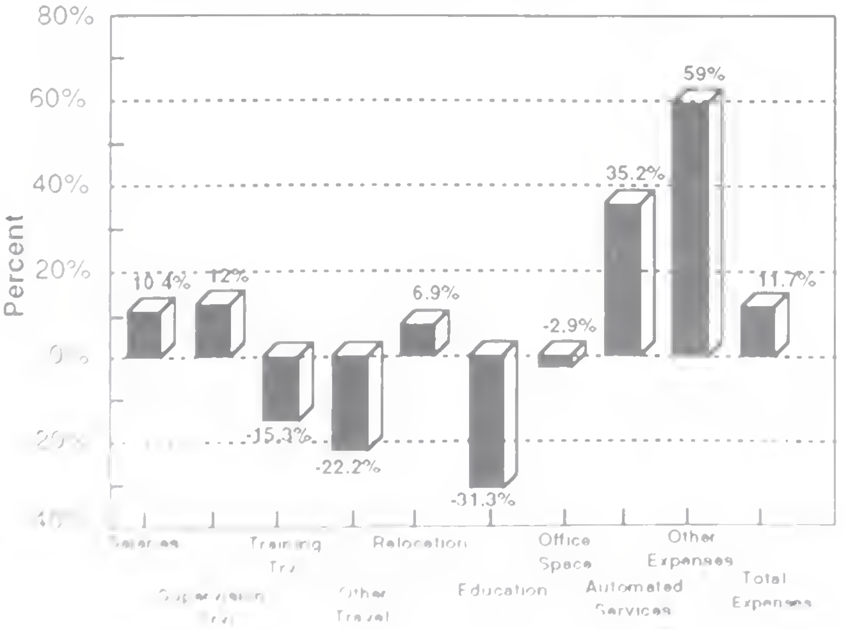
Assessments increased in 1991 because the OCC implemented an 11 percent increase in the assessment rates in January 1991.

Examination and Investigation Fees decreased because of reduced corporate application activity in 1991. The decrease was partially offset by an increase in trust examinations in 1991.

Investment Income was lower because of lower interest rates in 1991. Treasury bill rates, the predominant OCC investment, averaged 5.4 percent in 1991 compared with 7.5 percent in 1990.

Publications/Other Income declined in 1991 because 1990 includes a credit resulting from a write-off of an old Treasury reconciling item.

1991 Expense Changes From 1990



In 1991, the OCC adopted strategies to increase resources for bank supervision by increasing staff and by reallocating staff and funding. The result is readily evident in the 1991 expense changes from 1990.

Salaries, supervision travel, and relocation expenses increased, reflecting the OCC objective to put more resources on-site in banks. The higher staff levels increased salaries. Increased travel to banks and relocation of examiners to geographical locations which required greater numbers of experienced staff resulted in increased travel and relocation expense.

Training travel, other travel, and education expenses are lower because the OCC assigned these items a lower priority in 1991 to fund the increased supervision needs. Activities in the accounts were either deferred or eliminated.

Office space expenses declined marginally as a result of the relocation of the OCC's headquarters from L'Enfant Plaza to Independence Square in 1991. The increased costs reflected in Other Expenses result from the interest cost associated with the capital leases and certain non-recurring costs associated with the move, such as equipment and moving costs. Automated services expenses increased in 1991 because the OCC purchased the planned 1990 microcomputer replacements in the fall of 1989, skewing the year-to-year comparison.

## Audit of the OCC's 1991 Financial Statements

The audit of the OCC's 1991 Financial Statements was performed by Price Waterhouse. The independent accountants' report on the financial statements, along with their reports on Internal Controls and Compliance with Laws and Regulations, accompany the financial statements.

The OCC contracted for the audit service for this year's audit under Generally Accepted Government Auditing Standards and incorporated as appropriate the requirements of the Chief Financial Officers Act of 1990.

## Internal Control Initiatives

The OCC is committed to and maintains a system of internal controls that provide reasonable assurance that its assets are protected, transactions are properly recorded, and operations are conducted in accordance with established policies and procedures. The OCC is firmly committed to the Federal Managers' Financial Integrity Act of 1982 and ensures compliance with the act's objectives through:

- a Management Control Plan to ensure that its internal controls throughout the organization are evaluated systematically;
- oversight and guidance by management of the highest level; and,
- an internal quality review program that shows that OCC's quality controls throughout its financial operations and its operations are consistent and conform to standards.

In conjunction with its annual audit of the financial statements, Price Waterhouse reported no significant internal control weaknesses.

Stephen R. Steinbrink

Stephen R. Steinbrink
Acting Comptroller of the Currency

Judith A. Walter

Judith A. Walter
Senior Deputy Comptroller for Administration

Laura L McAuliffe

Laura L. McAuliffe
Acting Director, Financial Management

Office of Government Services
1801 K Street N W
Washington DC 20006

Telephone 202 [illegible]

Price Waterhouse

March 9, 1992

## Report of Independent Accountants

To the Comptroller of the Currency

We have audited the accompanying balance sheets and the related statements of revenue, expenses and changes in Comptroller's equity and of cash flows as of and for the years ended December 31, 1991 and 1990. These financial statements are the responsibility of management of the Office of the Comptroller of the Currency. Our responsibility is to express an opinion on these statements based on our audits.

We conducted our audits of these statements in accordance with generally accepted auditing standards and *Government Auditing Standards*, issued by the Comptroller General of the United States, and, for 1991, Office of Management and Budget Bulletin 91-14, "Audit Requirements for Federal Financial Statements." Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements and notes thereto are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in these statements, and the notes thereto. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinions.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Office of the Comptroller of the Currency at December 31, 1991 and 1990, and the results of its operations and its cash flows for the years then ended in accordance with generally accepted accounting principles.

Our audit was conducted for the purpose of forming an opinion on the financial statements described above. We have reviewed the financial information presented in management's "Overview of the OCC's Operations and Financial Management." This information is presented by management for the purpose of additional analysis. Such information has not been audited by us and, accordingly, we do not express our opinion on it. Our testing of this information is addressed, however, in the third paragraph of our report on compliance with laws and regulations.

Price Waterhouse

# Office of the Comptroller of the Currency — Financial Statements December 31, 1991 and 1990

## Balance Sheets

| | December 31, 1991 | December 31, 1990 |
|---|---|---|
| **Assets** | | |
| Current assets | | |
| Cash and cash equivalents (Note 2) | $ 10,855,127 | $ 3,883,492 |
| Receivables | | |
| Travel advances | 919,402 | 896,513 |
| Accounts receivable | 4,587,482 | 2,574,019 |
| Accrued interest | 1,162,384 | 1,510,701 |
| Total receivables | 6,669,268 | 4,981,233 |
| Investment securities, short-term | 44,163,783 | 42,871,259 |
| Prepaid expenses and other assets | 4,920,599 | 2,526,837 |
| Total current assets | 66,608,777 | 54,262,821 |
| Investment securities, long-term | 28,935,327 | 36,574,903 |
| Property and equipment: | | |
| Furniture, equipment, and software | 10,722,312 | 13,980,233 |
| Leasehold improvements | 19,742,059 | 22,471,232 |
| Building under capital lease (Note 3) | 97,188,000 | — |
| | 127,652,371 | 36,451,465 |
| Less: accumulated depreciation and amortization | 17,334,206 | 20,988,539 |
| Net fixed assets, capital leases and, leasehold improvements | 110,318,165 | 15,462,926 |
| Total assets | $ 205,862,269 | $ 106,300,650 |
| **Liabilities and Comptroller's Equity** | | |
| Current liabilities: | | |
| Accounts payable and accrued expenses | $ 6,999,549 | $ 6,456,066 |
| Accrued travel and salaries | 11,599,584 | 7,763,099 |
| Capital lease obligations (Note 3) | 1,077,681 | — |
| Total current liabilities | 19,676,814 | 14,219,165 |
| Long-term liabilities: | | |
| Accumulated annual leave | 13,232,144 | 12,274,625 |
| Capital lease obligations (Note 3) | 99,691,762 | — |
| Total long-term liabilities | 112,923,906 | 12,274,625 |
| Total liabilities | 132,600,720 | 26,493,790 |
| Comptroller's equity | 73,261,549 | 79,806,860 |
| Total liabilities and equity | $ 205,862,269 | $ 106,300,650 |

*See accompanying notes to the financial statements*

# Office of the Comptroller of the Currency — Financial Statements December 31, 1991 and 1990

## Statements of Revenue, Expenses, and Changes in Comptroller's Equity

| | Years ended December 31, | |
|---|---|---|
| | 1991 | 1990 |
| Revenue: | | |
| Semiannual assessments | $ 264,062,759 | $ 236,728,046 |
| Examinations and investigations | 14,067,504 | 14,383,254 |
| Investment income | 8,527,110 | 10,030,446 |
| Publication sales | 731,662 | 900,260 |
| Other | 201,790 | 1,475,603 |
| Total revenue | 287,590,825 | 263,517,609 |
| Expenses: | | |
| Salaries and benefits (Note 4) | 207,115,971 | 188,064,381 |
| Office space costs (Note 3) | 22,125,430 | 22,795,747 |
| Travel | 21,682,022 | 21,656,018 |
| Automated services | 11,345,897 | 8,388,335 |
| Office equipment and furniture (Note 3) | 7,987,643 | 3,205,661 |
| Interest (Note 3) | 5,256,518 | — |
| Relocation | 4,638,186 | 4,253,035 |
| Communication | 4,320,714 | 4,951,496 |
| Outside services | 3,426,425 | 3,204,678 |
| Office supplies, material, and services | 2,752,735 | 2,412,792 |
| Printing and graphics | 1,509,937 | 1,698,228 |
| Training | 1,237,283 | 1,819,585 |
| Conference | 737,375 | 860,339 |
| Total Expenses | 294,136,136 | 263,310,295 |
| (Deficiency) excess of revenue over expenses | (6,545,311) | 207,314 |
| Comptroller's equity at beginning of year | 79,806,860 | 79,599,546 |
| Comptroller's equity at end of year | $ 73,261,549 | $ 79,806,860 |

*See accompanying notes to the financial statements.*

# Office of the Comptroller of the Currency — Financial Statements December 31, 1991 and 1990

## Statement of Cash Flows

| | Years ended December 31, 1991 | 1990 |
|---|---|---|
| Cash Flows from Operating Activities: | | |
| Excess of expenses over revenue | $ (6,545,311) | $ 207,314 |
| Adjustments to reconcile excess of revenue over expenses to net cash provided by operating activities: | | |
| Purchase of furniture and equipment financed by capital lease | 4,720,000 | — |
| Depreciation, amortization and losses on disposals | 6,494,969 | 4,945,614 |
| (Increase) decrease in accounts receivable, prepaid expenses, and other assets | (4,081,797) | 65,287 |
| Decrease in non-current assets | — | 50,000 |
| Increase in accrued annual leave | 957,519 | 1,023,922 |
| Increase (decrease) in accounts payable, accrued payroll, travel, and other liabilities | 4,379,968 | (2,112,450) |
| Net cash provided by operating activities | 5,925,348 | 4,179,687 |
| Cash Flows from Investing Activities: | | |
| Proceeds from sale of fixed assets | 24,420 | 26,351 |
| Purchases of fixed assets | (3,998,842) | (4,106,137) |
| Proceeds from sales of investment securities | 276,775,118 | 338,494,011 |
| Purchases of investment securities | (270,615,852) | (335,310,031) |
| Net cash provided (used) by investing activities | 2,184,844 | (895,806) |
| Cash Flows from Financing Activities: | | |
| Principal payments on capital lease obligations | (1,138,557) | — |
| Net cash used by financing activities | (1,138,557) | — |
| Net increase in cash | 6,971,635 | 3,283,881 |
| Cash and cash equivalents, beginning of year | 3,883,492 | 599,611 |
| Cash and cash equivalents, end of year | $ 10,855,127 | $ 3,883,492 |
| Supplemental Non-Cash Investing and Financing Information: | | |
| Capital lease obligations entered into | $ 101,908,000 | $ — |

*See accompanying notes to the financial statements*

# Office of the Comptroller of the Currency
# Notes to Financial Statements

## Note 1 - Organization

The Office of the Comptroller of the Currency (Comptroller's Office) was created by an Act of Congress for the purpose of establishing and regulating a national banking system. The National Currency Act of 1863, rewritten and reenacted as the National Banking Act of 1864, created the Comptroller's Office and provided for its supervisory functions and the chartering of banks.

No funds derived from taxes or federal appropriations are allocated to or used by the Comptroller's Office in any of its operations. The revenue of the Comptroller's Office is derived principally from assessments and fees paid by the national banks and income on investments in U.S. Government obligations. The Comptroller's Office is exempt from federal and state income taxes.

The Comptroller's Office is a bureau within the Department of Treasury. The Department of Treasury provides certain administrative services to the Comptroller's Office, which pays the Department of Treasury for services rendered pursuant to their inter-agency agreements. Periodically, payments are made in advance for anticipated services in accordance with instructions from the Department of Treasury. Administrative services provided by the Department of Treasury totaled $2,711,000 and $1,118,000 for the years ending December 31, 1991 and 1990, respectively. Prepaid expenses at December 31, 1991 and 1990 include advances to the Department of Treasury totaling $1,989,000 and $1,080,000, respectively.

## Note 2 - Significant Accounting Policies

The accounting policies of the Comptroller's Office conform to generally accepted accounting principles; accordingly, the financial statements are presented on the accrual basis of accounting.

The Comptroller's Office considers demand deposits and overnight certificate investments to be cash equivalents. Investments maturing within one year are considered short-term investment securities. Short- and long-term investment securities are U.S. Treasury obligations, and are stated at cost plus accrued interest, which, at December 31, 1991 and 1990, approximates market value. Premiums and discounts on investment securities are amortized on a straight-line basis to maturity.

Property and equipment, including assets under capital leases, are stated at cost. Depreciation and amortization is calculated on a straight-line basis over the estimated useful lives of the assets, which range from three to ten years for furniture and equipment and over 25 years for the building. Leasehold improvements are stated at cost less accumulated amortization computed over the terms of the related leases (including renewal options) or their estimated useful lives, whichever is shorter. Expenditures for individual assets costing less than $15,000 and for maintenance and repairs are charged to earnings as incurred.

Various banks in the District of Columbia have deposited securities with the Comptroller's Office as collateral for those banks entering into and administering trust activities. These securities, having a par or stated value of $12,060,000 at December 31, 1991, are not assets of the Comptroller's Office and, accordingly, are not included in the accompanying financial statements.

## Note 3 - Leases

### *Office Space Leases*

The Comptroller's Office occupied office space in Washington, D.C. through May 1991 under a lease agreement which provided for an initial five-year term with five consecutive five-year renewal options. In December 1988, the Comptroller's Office decided to not exercise the third renewal option and to relocate its Washington, D.C. office space in 1991. Effective with this relocation decision, the amortization period of the affected leasehold improvements was shortened to the estimated lease term, December 1988 through June 1991, resulting in additional expense of $3,300,000 over that period. The initial lease period for the new Washington, D.C. office space is for 15 years. The lease provides for two consecutive five-year renewal options which will provide for occupancy through the year 2016.

The district and field offices lease space under agreements which expire at various dates through 2002. Future lease payments under office space leases for the district and field offices, as well as the new Washington, D.C. office, which was capitalized upon occupancy, are shown in the following table:

| Year | Washington, D.C. Capital Lease | District and Field Offices Operating Leases |
|---|---|---|
| 1992 | $ 10,105,000 | $ 12,628,000 |
| 1993 | 10,492,000 | 11,920,000 |
| 1994 | 10,521,000 | 10,483,000 |
| 1995 | 10,551,000 | 9,185,000 |
| 1996 | 10,583,000 | 7,371,000 |
| 1997 and after | 214,739,000 | 29,109,000 |
| Total minimum lease payments | 266,991,000 | $ 80,696,000 |
| Less: Amount representing interest | 170,505,000 | |
| Present value of net minimum lease payments | $ 96,486,000 | |

Certain of these leases provide that annual rentals may be adjusted to provide for increases in taxes and other related expenses. Total rental expense under office leases was $20,419,000 and $18,073,000 for the years ended December 31, 1991 and 1990, respectively.

*Other Leases*

In connection with the relocation to the new office space in May 1991, the Comptroller's Office leased office furniture under two leases. The two leases are for 60 months, with payments commencing July 1991 and October 1991, respectively. The net present value of $4,720,000 for the office furniture was charged to earnings in 1991. Future minimum annual lease payments at December 31, 1991 under these lease arrangements are as follows:

| Year | Office Furniture Leases |
|---|---|
| 1992 | $ 1,302,000 |
| 1993 | 1,302,000 |
| 1994 | 1,302,000 |
| 1995 | 1,302,000 |
| 1996 | 543,000 |
| Total minimum lease payments | 5,751,000 |
| Less: Amount representing interest | 1,468,000 |
| Present value of net minimum lease payments | $ 4,283,000 |

## Note 4 - Retirement and Benefit Plans

The Comptroller's Office contributes to the Civil Service Retirement System and the Federal Employees' Retirement System administered by the Office of Personnel Management for the benefit of U.S. Government employees. Contributions aggregated $14,342,000 and $13,066,000 in 1991 and 1990, respectively. The retirement plans are participatory. Under the Civil Service Retirement System the employer and employee each contribute 7 percent of salary to the plan. Under the Federal Employees' Retirement System, 13 percent of salary is contributed by the Comptroller's Office and .8 percent of salary is contributed by the employee.

Additionally, the Comptroller's Office contributes up to 5 percent of base pay for participants in the Thrift Savings Plan under the Federal Employees' Retirement System. The Comptroller's Office also contributes for Social Security and Medicare benefits for all eligible employees. The Comptroller's Office maintains its own health insurance plan for employees who elect to participate in it rather than other plans offered to Federal employees. Comptroller's Office employees who retire can continue to participate in this health insurance plan. Contributions for the savings plan and for retirees who participated in the health plan aggregated $2,837,000 and $2,499,000 in 1991 and 1990, respectively.

Although the Comptroller's Office contributes a portion of pension benefits under the Civil Service and Federal Employees' Retirement Systems for its employees and withholds the necessary payroll deductions from them, it has no liability for future payments to employees under these programs, and is not accountable for the assets of the Civil Service and Federal Employees' Retirement Systems nor does the Comptroller's Office have actuarial data concerning the accumulated plan benefits or the unfunded pension liability relating to its employees. These amounts are reported by the Office of Personnel Management for the Retirement Systems and are not allocated to the individual employers. The Office of Personnel Management also accounts for federal health and life insurance programs for retired Federal employees who do not participate in the Comptroller's Office plan.

## Note 5 - Contingencies

During 1990, a case was litigated in the U.S. District Court in which the Comptroller's Office and the Federal Deposit Insurance Corporation were joint defendants. The case, *MCorp, and MCorp Financial, Inc. v. Clarke and FDIC*, resulted in a judgement for the plaintiff who is seeking $270,000,000. The court has not determined the amount that would represent a liability of the Comptroller's Office. In the opinion of the Comptroller's Office legal staff, the Comptroller's Office has a meritorious appeal in the event a monetary judgement is rendered against it, and no material liability will be incurred by the Comptroller's Office.

During 1991, the Comptroller's Office was involved in litigation arising from its insolvency declarations for twenty MCorp Banks. The case, *Campbell, Hudspeth, and Boatmen v. OCC, et al.*, contains the same allegations as *MCorp and MCorp Financial, Inc. v. Clarke and FDIC*, discussed above, as well as allegations of violations of due process and conspiracy to deprive plaintiffs of equal protection of their civil rights. Plaintiffs, retired MBank executives or their estates, allege that the defendants' actions deprived them of pension rights. The Department of Justice filed an answer on November 20, 1991. In these suits, plaintiffs seek over $500,000 in monetary damages plus attorneys' fees and costs.

In addition to the above, the Comptroller's Office is a defendant, together with other bank supervisory agencies and other persons, in various litigation proceedings resulting from the closure of national banks. In the opinion of the Comptroller's legal staff, the Comptroller's Office will be able to defend successfully against these complaints and no material liability is expected to result therefrom.

## Note 6 - Reconciliation to Budget Report

The Statement of Reconciliation to Budget Report described in Office of Management and Budget (OMB) Bulletin 91-14 is designed to reconcile accrual based net results to cash outlays reported to the U.S. Treasury and the Office of Management and Budget for fiscal years ending September 30.

This statement is not applicable to the Comptroller of the Currency for two reasons. First, its annual statements are prepared on a calendar year basis whereas outlays are reported on a fiscal year basis ending September 30. Second, the Comptroller of the Currency does not report on Budget Execution.

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*Price Waterhouse*

March 9, 1992

## Report of Independent Accountants on Internal Controls

To the Comptroller of the Currency

We have audited the financial statements of the Office of the Comptroller of the Currency (Comptroller's Office) as of and for the year ended December 31, 1991 and have issued our report thereon dated March 9, 1992.

We conducted our audit in accordance with generally accepted auditing standards, and *Government Auditing Standards,* issued by the Comptroller General of the United States, and, for 1991, Office of Management and Budget (OMB) Bulletin 91-14 "Audit Requirements for Federal Financial Statements." Those standards required that we plan and perform the audit to obtain reasonable assurance about whether the financial statements and notes thereto are free of material misstatement.

In planning and performing our audit of the financial statements of the Comptroller's Office for the year ended December 31, 1991, we considered its internal control structure. The purposes of this consideration were to (i) determine our auditing procedures for the purpose of expressing our opinion on the financial statements; and (ii) to determine whether the internal control structure meets the objectives identified in the following paragraph. This included obtaining an understanding of the internal control policies and procedures and assessing the level of control risk relevant to all significant cycles, classes of transactions, or account balances; and for those significant control policies and procedures that have been properly designed and placed in operation, performing sufficient tests to provide reasonable assurance that the controls are effective and working as designed to prevent or detect material errors in the financial statements and the notes thereto.

The management of the Comptroller's Office is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgements by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that costs are in compliance with applicable laws; funds, property, and other assets are safeguarded against waste, loss, unauthorized use or misappropriation; and revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports to maintain accountability over assets. Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

For the purpose of this report, we have classified the significant internal control policies and procedures into the following categories: assessments and revenues, cash receipts, receivables, investment securities, purchasing, cash disbursements, salaries and benefits, accounts payable and accrued expenses, fixed assets and leases, and financial statement preparation and reporting.

The terms of our contract require that we review the categories of significant internal control policies and procedures described in the preceding paragraph on a three-year rotational cycle. Because we have not yet completed this three-year rotational cycle, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion as to whether there is reasonable assurance that the internal control objectives were achieved. We did, however, consider the internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be reportable conditions or material weaknesses under standards established by the American Institute of Certified Public Accountants and OMB Bulletin 91-14. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgement, could adversely affect the entity's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. A material weakness is a reportable condition in which the design or operation of specific internal control element does not reduce to a relatively low level the risk that errors or irregularities, in amounts that would be material in relation to the financial statements being audited, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control structure and its operation that we consider to be material weaknesses as defined above.

However, we noted certain matters involving the internal control structure and its operation that we reported to management of the Comptroller's Office in a separate letter dated March 9, 1992.

This report is intended solely for the use of the Policy Group and management of the Comptroller's Office. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Price Waterhouse

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March 9, 1992

## Report of Independent Accountants on Compliance with Laws and Regulations

To the Comptroller of the Currency

We have audited the financial statements of the Office of the Comptroller of the Currency (Comptroller's Office) as of and for the year ended December 31, 1991, and have issued our report thereon dated March 9, 1992.

We conducted our audit in accordance with generally accepted auditing standards and *Government Auditing Standards* issued by the Comptroller General of the United States, and, for 1991, the Office of Management and Budget (OMB) Bulletin 91-14, "Audit Requirements for Federal Financial Statements." Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements and related notes thereto are free of material misstatement.

Compliance with laws and regulations applicable to the Comptroller's Office is the responsibility of the Comptroller's Office management. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we tested compliance with certain provisions of laws and regulations that may directly affect the financial statements. As part of our audit, we reviewed management's process for evaluating and reporting on internal control and accounting systems as required by the Department of the Treasury pursuant to its requirement to report under the Federal Managers' Financial Integrity Act (FMFIA) and compared the Comptroller's Office's most recent report to Treasury under FMFIA with the evaluation we conducted of the Comptroller's Office's internal control system. We also reviewed and tested the Comptroller's Office's policies, procedures, and systems for documenting and supporting financial, statistical, and other information presented in the "Overview of the OCC's Operations and Financial Management." However, our objective was not to provide an opinion on overall compliance with such provisions.

The results of our tests indicate that, with respect to the items tested, the Comptroller's Office complied, in all material respects, with the provisions of the laws and regulations referred to in the preceding paragraph. With respect to items not tested, nothing came to our attention that caused us to believe that Comptroller's Office had not complied, in all material respects, with those provisions.

This report is intended for the information of the Policy Group and the management of the Comptroller's Office. This is not intended to limit distribution of this report, which is a matter of public record.

Price Waterhouse

# Statistical Tables

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*Tables provided by the Banking Research and Statistics Division.*

## *Assets, liabilities and capital accounts of national banks, March 31, 1991, and March 31, 1992*
(Dollar amounts in millions)

| | *March 31 1991* | *March 31, 1992* | *Change March 31 1991 - March 31, 1992 fully consolidated* | |
|---|---|---|---|---|
| | *Consolidated foreign and domestic* | *Consolidated foreign and domestic* | *Amount* | *Percent* |
| Assets | | | | |
| Cash and balances due from depository institutions. | | | | |
| Noninterest-bearing balances and currency and coin | $100,448 | $116,390 | $15,942 | 15.87 |
| Interest-bearing balances | 54,360 | 57,559 | 3,199 | 5.88 |
| Investment Securities | 323,623 | 372,511 | 48,887 | 15.11 |
| Federal funds sold and securities purchased under agreements to resell | 86,878 | 92,609 | 5,732 | 6.60 |
| Loans and leases net of unearned income | 1,268,846 | 1,213,528 | –55,318 | -4.36 |
| Less allowance for loan and lease losses | 33,540 | 34,418 | 879 | 2.62 |
| Less allocated transfer risk reserve | 169 | 121 | –48 | –28.59 |
| Net loans and leases | 1,235,137 | 1,178,989 | –56,148 | –4.55 |
| Premises and fixed assets | 30,041 | 30,610 | 569 | 1.89 |
| Other real estate owned | 16,438 | 18,433 | 1,995 | 12.14 |
| All other assets | 111,241 | 113,026 | 6,622 | 6.22 |
| *Total assets* | 1,958,166 | 1,980,127 | 21,961 | 1.12 |
| Liabilities | | | | |
| Deposits: | | | | |
| Noninterest-bearing deposits in domestic offices | 249,519 | 278,996 | 29,476 | 11.81 |
| Interest-bearing deposits in domestic offices | 1,082,795 | 1,085,795 | 2,999 | 0.28 |
| Total domestic deposits | 1,332,315 | 1,364,790 | 32,475 | 2.44 |
| Total foreign deposits | 193,808 | 195,539 | 1,730 | 0.89 |
| Total deposits | 1,530,527 | 1,560,329 | 29,802 | 1.95 |
| Federal funds purchased and securities sold under agreements to repurchase | 146,586 | 145,554 | –1,032 | –0.70 |
| Demand notes issued to the U.S. Treasury | 13,277 | 8,945 | 4,332 | –32.63 |
| Other borrowed money | 62,998 | 61,382 | 1,616 | 2.57 |
| Subordinated notes and debentures | 15,183 | 15,420 | 237 | 1.56 |
| All other liabilities | 66,866 | 57,822 | 9,044 | –13.53 |
| *Total Liabilities* | 1,835,438 | 1,849,452 | 14,014 | 0.76 |
| Limited-life preferred stock | 1 | 6 | 5 | 823.00 |
| Equity Capital | | | | |
| Perpetual preferred stock | 400 | 355 | –44 | –11.11 |
| Common Stock | 17,142 | 16,306 | 836 | –4.88 |
| Surplus | 50,450 | 56,645 | 6,195 | 12.28 |
| Net undivided profits and capital reserves | 55,265 | 57,938 | 2,673 | 4.84 |
| Cumulative foreign currency translation adjustments | –530 | –578 | 48 | 9.06 |
| *Total equity capital* | 122,727 | 130,666 | 7,939 | 6.47 |
| *Total liabilities, limited-life preferred stock, and equity capital* | 1,958,166 | 1,980,127 | 21,961 | 1.12 |

## *Income and expenses of foreign and domestic offices and subsidiaries of national banks, March 31, 1992*
(Dollar amounts in millions)

| | *Consolidated foreign and domestic* | *Percent distribution* |
|---|---|---|
| Interest income | | |
| Interest and fee income on loans | $28,628 | 72.7 |
| Income from lease financing receivables | 775 | 2.0 |
| Interest income on balances due from depository institutions | 1,283 | 3.3 |
| Interest and dividend income on securities | 6,977 | 17.7 |
| Interest income from assets held in trading accounts | 626 | 1.6 |
| Interest income from federal funds sold and securities purchased under agreements to resell | 1,072 | 2.7 |
| *Total interest income* | 39,361 | 100.0 |
| Interest expense | | |
| Interest on deposits | 16,573 | 81.2 |
| Expense of federal funds purchased and securities sold under agreements to repurchase | 1,537 | 7.5 |
| Interest on demand notes issued to the U.S. Treasury and on other borrowed money | 1,987 | 9.7 |
| Interest on mortgage indebtedness and obligations under capitalized leases | 26 | 0.1 |
| Interest on notes and debentures subordinated to deposits | 292 | 1.4 |
| *Total interest expense* | 20,416 | 100.0 |
| Net interest income | 18,945 | |
| Provision for loan and lease losses | 4,748 | |
| Provision for allocated transfer risk | -54 | |
| Noninterest income | | |
| Service charges on deposit accounts | 2,183 | 22.2 |
| Other noninterest income | 7,632 | 77.8 |
| *Total noninterest income* | 9,815 | 100.0 |
| Gains and losses on securities not held in trading accounts | 692 | |
| Noninterest expense | | |
| Salaries and employee benefits | 7,952 | 41.5 |
| Expenses of premises and fixed assets (net of rental income) | 2,687 | 14.0 |
| Other noninterest expense | 8,520 | 44.5 |
| *Total noninterest expense* | 19,158 | 100.0 |
| Income (loss) before income taxes and extraordinary items and other adjustments | 5,599 | |
| Applicable income taxes | 1,749 | |
| Income before extraordinary items and other adjustments | 3,851 | |
| Extraordinary items and other adjustments, net of taxes | 102 | |
| Net income | 3,954 | |
| Total cash dividends declared* | 1,166 | |
| Recoveries credited to allowance for possible loan losses | 779 | |
| Losses charged to allowance for possible loan losses | 4,883 | |
| Net loan losses | 4,104 | |

*Banks with assets of less than $100 million for this item only in their December Report of Income

## *Loans of national banks, by state, March 31, 1992*
## (Dollar amounts in millions)

| | Total loans, gross | Domestic offices | | | | | Total loans at foreign offices |
|---|---|---|---|---|---|---|---|
| | | Loans secured by real estate | Loans to farmers | Commercial and industrial loans | Loans to individuals | Other loans | |
| All national banks | $1,219,247 | $481,682 | $14,474 | $282,611 | $209,423 | $98,716 | $132,341 |
| Alabama | 11,120 | 4,960 | 72 | 3,149 | 2,100 | 839 | 0 |
| Alaska | 1,391 | 584 | 0 | 503 | 168 | 131 | 5 |
| Arizona | 10,736 | 3,545 | 322 | 1,757 | 4,552 | 560 | 0 |
| Arkansas | 5,857 | 3,040 | 213 | 1,147 | 1,239 | 218 | 0 |
| California | 171,731 | 82,889 | 1,922 | 28,933 | 21,139 | 10,356 | 26,492 |
| Colorado | 9,434 | 3,772 | 396 | 1,877 | 2,861 | 528 | 0 |
| Connecticut | 13,150 | 8,117 | 17 | 3,388 | 1,055 | 573 | 0 |
| Delaware | 13,612 | 521 | 1 | 119 | 12,855 | 116 | 0 |
| District of Columbia | 7,134 | 3,744 | 0 | 1,655 | 465 | 757 | 513 |
| Florida | 58,941 | 35,249 | 166 | 8,135 | 12,162 | 3,164 | 65 |
| Georgia | 24,763 | 10,332 | 91 | 6,604 | 5,635 | 1,954 | 147 |
| Hawaii | 222 | 139 | 0 | 70 | 11 | 2 | 0 |
| Idaho | 5,360 | 1,624 | 457 | 1,248 | 1,509 | 522 | 0 |
| Illinois | 61,941 | 20,138 | 791 | 23,787 | 7,057 | 5,307 | 4,861 |
| Indiana | 20,837 | 8,697 | 293 | 4,933 | 5,359 | 1,555 | 0 |
| Iowa | 6,926 | 2,811 | 634 | 1,589 | 1,520 | 372 | 0 |
| Kansas | 6,892 | 2,740 | 886 | 1,538 | 1,442 | 286 | 0 |
| Kentucky | 11,129 | 4,591 | 131 | 2,742 | 2,543 | 1,119 | 3 |
| Louisiana | 10,172 | 4,505 | 45 | 2,602 | 2,319 | 649 | 52 |
| Maine | 1,567 | 1,137 | 4 | 218 | 154 | 54 | 0 |
| Maryland | 18,287 | 8,286 | 15 | 3,014 | 5,519 | 1,189 | 264 |
| Massachusetts | 30,873 | 10,521 | 24 | 11,410 | 1,587 | 2,312 | 5,019 |
| Michigan | 35,125 | 14,150 | 160 | 11,131 | 5,091 | 2,983 | 1,610 |
| Minnesota | 23,847 | 9,258 | 551 | 7,321 | 3,141 | 3,451 | 125 |
| Mississippi | 5,238 | 2,297 | 81 | 1,244 | 1,151 | 465 | 0 |
| Missouri | 17,921 | 8,243 | 337 | 4,789 | 3,002 | 1,550 | 0 |
| Montana | 1,986 | 590 | 172 | 414 | 767 | 43 | 0 |
| Nebraska | 7,064 | 1,784 | 1,199 | 1,148 | 2,566 | 367 | 0 |
| Nevada | 7,717 | 1,470 | 12 | 350 | 5,486 | 399 | 0 |
| New Hampshire | 1,100 | 430 | 0 | 238 | 412 | 20 | 0 |
| New Jersey | 42,846 | 24,079 | 21 | 10,263 | 5,847 | 2,470 | 166 |
| New Mexico | 4,046 | 2,401 | 116 | 546 | 780 | 203 | 0 |
| New York | 209,790 | 53,988 | 274 | 33,900 | 15,124 | 16,223 | 90,281 |
| North Carolina | 37,870 | 15,684 | 145 | 12,561 | 3,461 | 5,226 | 793 |
| North Dakota | 1,625 | 591 | 219 | 396 | 370 | 49 | 0 |
| Ohio | 59,604 | 22,131 | 296 | 14,496 | 18,181 | 4,448 | 52 |
| Oklahoma | 7,058 | 3,028 | 626 | 1,721 | 1 217 | 466 | 0 |
| Oregon | 12,184 | 4,207 | 280 | 3,608 | 2 635 | 1,454 | 0 |
| Pennsylvania | 67,452 | 25,249 | 119 | 21,377 | 9,405 | 9,972 | 1 330 |
| Rhode Island | 8,954 | 4,011 | 0 | 2,802 | 543 | 1,575 | 23 |
| South Carolina | 12,727 | 6,992 | 47 | 2,156 | 2 225 | 1,307 | 0 |
| South Dakota | 9,934 | 723 | 369 | 1,649 | 5,012 | 2 181 | 0 |
| Tennessee | 15,384 | 6,861 | 99 | 3,819 | 3,309 | 1 296 | 0 |
| Texas | 57,141 | 20,117 | 1,467 | 19,211 | 10 105 | 5 775 | 466 |
| Utah | 5,357 | 2,218 | 115 | 1,120 | 1 455 | 449 | 0 |
| Vermont | 1,701 | 1 102 | 19 | 382 | 180 | 18 | 0 |
| Virginia | 17,447 | 7,917 | 101 | 3,874 | 4 573 | 982 | 0 |
| Washington | 24,937 | 10,482 | 838 | 6 493 | 5 621 | 1 444 | 59 |
| West Virginia | 5,996 | 3,242 | 10 | 1,004 | 1 554 | 186 | 0 |
| Wisconsin | 13,616 | 5,798 | 227 | 3 839 | 2,616 | 1 121 | 15 |
| Wyoming | 832 | 277 | 92 | 202 | 239 | 22 | 0 |
| Puerto Rico | 674 | 420 | 1 | 140 | 106 | 7 | 0 |

*Zeros indicate amounts of less than $500,000

## *Deposits of national banks, by state, March 31, 1992*
(Dollar amounts in millions)

| | *Total demand deposits at domestic offices* | *All NOW accounts* | *Money market deposit accounts* | *Large time deposits* | *All other deposits at domestic offices* | *Total deposits at foreign offices* | *Total consolidated deposits* |
|---|---|---|---|---|---|---|---|
| All national banks | $267,944 | $146,211 | $269,547 | $160,751 | $520,338 | $195,539 | $1,560,329 |
| Alabama | 2,368 | 1,676 | 2,897 | 1,801 | 5,759 | 228 | 14,729 |
| Alaska | 779 | 203 | 388 | 331 | 877 | 1 | 2,580 |
| Arizona | 3,159 | 1,926 | 4,378 | 1,153 | 5,441 | 0 | 16,057 |
| Arkansas | 1,772 | 1,741 | 1,276 | 1,293 | 5,198 | 0 | 11,280 |
| California | 37,056 | 16,486 | 44,274 | 16,140 | 45,444 | 26,526 | 185,926 |
| Colorado | 4,689 | 2,871 | 4,109 | 1,172 | 5,492 | 29 | 18,362 |
| Connecticut | 3,951 | 1,926 | 2,482 | 1,214 | 8,125 | 290 | 17,988 |
| Delaware | 346 | 98 | 2,237 | 4,381 | 1,535 | 0 | 8,597 |
| District of Columbia | 2,250 | 1,585 | 2,865 | 2,072 | 2,389 | 1,074 | 12,234 |
| Florida | 15,026 | 8,398 | 15,914 | 11,829 | 34,460 | 230 | 85,857 |
| Georgia | 6,728 | 3,371 | 5,221 | 3,443 | 10,930 | 439 | 30,132 |
| Hawaii | 56 | 46 | 35 | 39 | 118 | 0 | 295 |
| Idaho | 992 | 760 | 1,200 | 401 | 2,629 | 0 | 5,982 |
| Illinois | 14,158 | 6,512 | 11,780 | 14,596 | 26,419 | 15,329 | 88,795 |
| Indiana | 4,722 | 3,096 | 4,507 | 2,231 | 11,043 | 107 | 25,708 |
| Iowa | 2,106 | 1,568 | 1,721 | 735 | 5,610 | 0 | 11,741 |
| Kansas | 1,800 | 1,748 | 2,028 | 1,092 | 5,728 | 0 | 12,396 |
| Kentucky | 2,796 | 2,141 | 1,681 | 1,273 | 6,478 | 247 | 14,616 |
| Louisiana | 3,848 | 2,368 | 3,230 | 2,368 | 7,514 | 30 | 19,359 |
| Maine | 200 | 215 | 228 | 126 | 1,105 | 0 | 1,874 |
| Maryland | 3,577 | 1,630 | 3,203 | 3,521 | 8,484 | 202 | 20,618 |
| Massachusetts | 5,857 | 2,699 | 7,732 | 3,742 | 9,020 | 5,192 | 34,241 |
| Michigan | 7,624 | 2,893 | 8,338 | 3,901 | 17,386 | 3,594 | 43,737 |
| Minnesota | 6,332 | 3,683 | 6,179 | 2,415 | 10,737 | 239 | 29,585 |
| Mississippi | 1,359 | 1,220 | 1,437 | 1,093 | 3,703 | 0 | 8,811 |
| Missouri | 5,453 | 3,445 | 5,389 | 1,674 | 10,863 | 23 | 26,847 |
| Montana | 518 | 498 | 646 | 160 | 1,299 | 0 | 3,121 |
| Nebraska | 1,784 | 1,516 | 1,296 | 790 | 5,231 | 0 | 10,618 |
| Nevada | 1,041 | 593 | 1,331 | 406 | 1,533 | 0 | 4,904 |
| New Hampshire | 299 | 172 | 121 | 324 | 510 | 0 | 1,426 |
| New Jersey | 11,461 | 6,716 | 7,588 | 3,406 | 30,892 | 36 | 60,099 |
| New Mexico | 988 | 1,025 | 935 | 743 | 2,946 | 0 | 6,636 |
| New York | 28,799 | 9,606 | 31,640 | 17,890 | 36,687 | 129,087 | 253,710 |
| North Carolina | 6,061 | 2,543 | 5,846 | 6,054 | 12,181 | 4,815 | 37,500 |
| North Dakota | 362 | 549 | 458 | 185 | 1,479 | 0 | 3,032 |
| Ohio | 11,093 | 7,181 | 11,053 | 5,759 | 32,054 | 1,386 | 68,525 |
| Oklahoma | 2,784 | 1,999 | 1,839 | 1,543 | 5,737 | 64 | 13,966 |
| Oregon | 2,566 | 1,971 | 3,014 | 526 | 4,770 | 0 | 12,847 |
| Pennsylvania | 15,115 | 7,178 | 15,809 | 8,622 | 37,640 | 4,144 | 88,508 |
| Rhode Island | 1,422 | 479 | 1,425 | 3,811 | 2,452 | 462 | 10,052 |
| South Carolina | 2,614 | 2,239 | 2,700 | 1,393 | 5,406 | 0 | 14,352 |
| South Dakota | 582 | 548 | 857 | 1,584 | 3,687 | 0 | 7,259 |
| Tennessee | 4,308 | 2,566 | 4,655 | 1,917 | 10,016 | 37 | 23,499 |
| Texas | 20,651 | 13,767 | 19,550 | 14,644 | 35,065 | 1,388 | 105,065 |
| Utah | 1,386 | 973 | 1,320 | 323 | 2,814 | 110 | 6,926 |
| Vermont | 207 | 249 | 372 | 183 | 1,069 | 0 | 2,080 |
| Virginia | 3,661 | 2,954 | 2,673 | 2,257 | 10,097 | 26 | 21,667 |
| Washington | 6,282 | 3,139 | 6,013 | 1,753 | 9,451 | 108 | 26,745 |
| West Virginia | 1,167 | 1,130 | 801 | 549 | 5,600 | 0 | 9,247 |
| Wisconsin | 3,442 | 1,856 | 2,557 | 1,095 | 8,229 | 96 | 17,274 |
| Wyoming | 287 | 318 | 308 | 205 | 768 | 0 | 1,886 |
| Puerto Rico | 59 | 139 | 11 | 595 | 238 | 0 | 1,041 |

*Zero indicates amount of less than $500,000.

## *Interest Income of National Banks, March 31, 1992*

(Dollar amounts in millions)

|  | *Interest and fees on loans* | *Income from lease financing* | *Interest due from other depository institutions* | *Interest and dividents on securities* | *Interest from trading account assets* | *Interest from federal funds transactions* | *Total interest income* |
|---|---|---|---|---|---|---|---|
| All national banks | $28,628 | $775 | $1,283 | $6,977 | $626 | $1,072 | $39,361 |
| Alabama | 241 | 2 | 1 | 100 | 1 | 5 | 350 |
| Alaska | 34 | 0 | 1 | 30 | 0 | 1 | 66 |
| Arizona | 287 | 6 | 4 | 79 | 3 | 12 | 391 |
| Arkansas | 136 | 0 | 1 | 83 | 1 | 7 | 228 |
| California | 3,815 | 87 | 74 | 347 | 86 | 115 | 4,523 |
| Colorado | 238 | 3 | 6 | 114 | 0 | 20 | 382 |
| Connecticut | 267 | 0 | 1 | 111 | 0 | 8 | 387 |
| Delaware | 512 | 2 | 4 | 23 | 0 | 3 | 545 |
| District of Columbia | 148 | 2 | 13 | 52 | 0 | 17 | 233 |
| Florida | 1,335 | 5 | 37 | 351 | 0 | 76 | 1,805 |
| Georgia | 581 | 8 | 4 | 136 | 2 | 33 | 764 |
| Hawaii | 5 | 0 | 0 | 1 | 0 | 0 | 7 |
| Idaho | 120 | 3 | 1 | 26 | 2 | 2 | 155 |
| Illinois | 1,273 | 6 | 178 | 387 | 56 | 75 | 1,973 |
| Indiana | 472 | 13 | 4 | 119 | 0 | 13 | 620 |
| Iowa | 164 | 1 | 1 | 117 | 0 | 5 | 288 |
| Kansas | 170 | 2 | 1 | 102 | 0 | 6 | 281 |
| Kentucky | 241 | 5 | 1 | 73 | 0 | 14 | 334 |
| Louisiana | 243 | 1 | 8 | 145 | 0 | 13 | 409 |
| Maine | 38 | 0 | 0 | 7 | 0 | 0 | 44 |
| Maryland | 454 | 4 | 2 | 104 | 2 | 9 | 575 |
| Massachusetts | 992 | 48 | 161 | 183 | 3 | 13 | 1,401 |
| Michigan | 734 | 8 | 22 | 235 | 4 | 13 | 1,016 |
| Minnesota | 486 | 14 | 4 | 164 | 5 | 20 | 694 |
| Mississippi | 117 | 0 | 2 | 73 | 0 | 6 | 198 |
| Missouri | 378 | 5 | 2 | 155 | 3 | 29 | 572 |
| Montana | 55 | 0 | 1 | 16 | 0 | 4 | 76 |
| Nebraska | 194 | 1 | 1 | 65 | 0 | 5 | 267 |
| Nevada | 326 | 0 | 0 | 21 | 0 | 2 | 350 |
| New Hampshire | 32 | 0 | 1 | 8 | 0 | 1 | 41 |
| New Jersey | 909 | 8 | 19 | 265 | 2 | 30 | 1,233 |
| New Mexico | 100 | 1 | 1 | 40 | 0 | 5 | 146 |
| New York | 5,640 | 336 | 591 | 680 | 387 | 110 | 7,744 |
| North Carolina | 714 | 22 | 26 | 183 | 35 | 73 | 1,053 |
| North Dakota | 41 | 0 | 1 | 20 | 0 | 3 | 66 |
| Ohio | 1,483 | 42 | 13 | 334 | 1 | 40 | 1,912 |
| Oklahoma | 166 | 0 | 3 | 113 | 0 | 8 | 290 |
| Oregon | 272 | 22 | 0 | 45 | 2 | 6 | 347 |
| Pennsylvania | 1,345 | 55 | 50 | 581 | 10 | 30 | 2,070 |
| Rhode Island | 150 | 34 | 0 | 32 | 0 | 10 | 226 |
| South Carolina | 291 | 1 | 1 | 86 | 1 | 10 | 390 |
| South Dakota | 250 | 2 | 0 | 18 | 0 | 4 | 275 |
| Tennessee | 334 | 4 | 7 | 145 | 5 | 9 | 504 |
| Texas | 1,204 | 3 | 28 | 663 | 5 | 165 | 2,069 |
| Utah | 119 | 4 | 3 | 32 | 5 | 2 | 166 |
| Vermont | 42 | 0 | 0 | 8 | 0 | 0 | 50 |
| Virginia | 407 | 3 | 3 | 83 | 0 | 17 | 514 |
| Washington | 567 | 7 | 0 | 37 | 1 | 7 | 619 |
| West Virginia | 146 | 0 | 1 | 73 | 0 | 5 | 225 |
| Wisconsin | 322 | 5 | 2 | 85 | 0 | 7 | 422 |
| Wyoming | 20 | 0 | 0 | 20 | 0 | 1 | 41 |
| Puerto Rico | 17 | 0 | 1 | 6 | 0 | 1 | 25 |

*Zeros indicate amounts of less than $500,000

## Noninterest Income of National Banks, March 31, 1992
## (Dollar amounts in millions)

| | Service charges on deposit accounts | Gains (Losses) on foreign exchange transactions | Gains (Losses) on fees from assets in trading accounts | Other noninterest income + extraordinary items | Gains (Losses) on assets not in trading accounts | Total noninterest income and gains (losses) on assets not in trading accounts |
|---|---|---|---|---|---|---|
| All national banks | $2,183 | $401 | $227 | $7,106 | $692 | $10,609 |
| Alabama | 22 | 1 | 2 | 40 | 4 | 70 |
| Alaska | 5 | 0 | 0 | 9 | 4 | 17 |
| Arizona | 35 | 1 | 0 | 94 | 5 | 135 |
| Arkansas | 15 | 0 | 2 | 25 | 2 | 44 |
| California | 366 | 72 | 8 | 780 | 2 | 1,224 |
| Colorado | 37 | 1 | 1 | 92 | 2 | 133 |
| Connecticut | 30 | 1 | 0 | 68 | 20 | 119 |
| Delaware | 1 | 0 | 0 | 328 | 0 | 330 |
| District of Columbia | 17 | 1 | 1 | 49 | 19 | 87 |
| Florida | 152 | 2 | 0 | 221 | 45 | 420 |
| Georgia | 67 | 1 | 3 | 119 | 64 | 254 |
| Hawaii | 0 | 0 | 0 | 0 | 0 | 1 |
| Idaho | 11 | 0 | 0 | 15 | 0 | 26 |
| Illinois | 96 | 17 | 27 | 230 | 33 | 402 |
| Indiana | 33 | 0 | 1 | 83 | 3 | 120 |
| Iowa | 13 | 0 | 0 | 49 | 1 | 64 |
| Kansas | 16 | 0 | 0 | 26 | 3 | 45 |
| Kentucky | 16 | 0 | 0 | 28 | 3 | 47 |
| Louisiana | 33 | 0 | 2 | 44 | 13 | 92 |
| Maine | 2 | 0 | 0 | 6 | 1 | 9 |
| Maryland | 40 | 0 | -3 | 63 | 24 | 124 |
| Massachusetts | 40 | 4 | 4 | 222 | 67 | 338 |
| Michigan | 56 | 4 | 3 | 138 | 8 | 209 |
| Minnesota | 42 | 2 | -2 | 164 | 24 | 231 |
| Mississippi | 13 | 0 | 1 | 17 | 1 | 31 |
| Missouri | 41 | 2 | 9 | 80 | 8 | 140 |
| Montana | 4 | 0 | 0 | 8 | 0 | 12 |
| Nebraska | 13 | 0 | 0 | 72 | 3 | 88 |
| Nevada | 9 | 0 | 0 | 141 | 0 | 151 |
| New Hampshire | 2 | 0 | 0 | 5 | 7 | 13 |
| New Jersey | 76 | 1 | 3 | 116 | 28 | 224 |
| New Mexico | 9 | 0 | 0 | 13 | 0 | 22 |
| New York | 140 | 264 | 131 | 1,500 | 34 | 2,069 |
| North Carolina | 67 | 6 | -4 | 191 | 8 | 268 |
| North Dakota | 3 | 0 | 0 | 8 | 0 | 11 |
| Ohio | 86 | 3 | 1 | 335 | 16 | 441 |
| Oklahoma | 23 | 0 | 2 | 39 | 4 | 69 |
| Oregon | 33 | 0 | 2 | 73 | 0 | 109 |
| Pennsylvania | 107 | 7 | 3 | 328 | 131 | 576 |
| Rhode Island | 6 | 0 | 0 | 92 | 1 | 97 |
| South Carolina | 25 | 0 | 1 | 39 | 5 | 70 |
| South Dakota | 4 | 0 | 0 | 449 | 0 | 452 |
| Tennessee | 38 | 0 | 24 | 58 | 1 | 120 |
| Texas | 199 | 5 | 2 | 335 | 65 | 607 |
| Utah | 14 | 0 | -1 | 28 | 0 | 41 |
| Vermont | 2 | 0 | 0 | 6 | 0 | 8 |
| Virginia | 27 | 0 | 1 | 82 | 31 | 142 |
| Washington | 62 | 3 | 1 | 117 | 0 | 184 |
| West Virginia | 7 | 0 | 0 | 14 | 1 | 22 |
| Wisconsin | 24 | 1 | 0 | 64 | 1 | 89 |
| Wyoming | 2 | 0 | 0 | 3 | 0 | 5 |
| Puerto Rico | 1 | 0 | 0 | 1 | 1 | 2 |

*Zero indicates amounts of less than $500,000.

# *Interest Expense of National Banks, March 31, 1992*
# *(Dollar amounts in millions)*

| | *Interest on deposits* | *Expense of federal funds transactions* | *Interest on treasury demand notes and other borrowed money* | *Interest on mortgage and capitalized leases* | *Interest on subordinated notes and debentures* | *Total interest expense* |
|---|---|---|---|---|---|---|
| All national banks | $16,573 | $1,537 | $1,987 | $26 | $292 | $20,416 |
| Alabama | 149 | 18 | 2 | 0 | 0 | 168 |
| Alaska | 19 | 4 | 0 | 0 | 0 | 23 |
| Arizona | 135 | 3 | 29 | 0 | 0 | 168 |
| Arkansas | 104 | 2 | 0 | 0 | 0 | 107 |
| California | 1,635 | 101 | 212 | 5 | 55 | 2,007 |
| Colorado | 150 | 8 | 0 | 1 | 0 | 159 |
| Connecticut | 160 | 15 | 4 | 0 | 1 | 180 |
| Delaware | 131 | 33 | 58 | 0 | 4 | 226 |
| District of Columbia | 125 | 6 | 2 | 0 | 0 | 133 |
| Florida | 744 | 59 | 19 | 1 | 4 | 827 |
| Georgia | 302 | 58 | 3 | 0 | 1 | 364 |
| Hawaii | 3 | 0 | 0 | 0 | 0 | 3 |
| Idaho | 61 | 10 | 2 | 0 | 0 | 74 |
| Illinois | 961 | 93 | 47 | 0 | 28 | 1,130 |
| Indiana | 254 | 26 | 5 | 0 | 0 | 286 |
| Iowa | 125 | 12 | 6 | 0 | 0 | 144 |
| Kansas | 131 | 5 | 0 | 0 | 0 | 137 |
| Kentucky | 146 | 18 | 2 | 0 | 0 | 167 |
| Louisiana | 169 | 12 | 1 | 0 | 0 | 183 |
| Maine | 22 | 1 | 1 | 0 | 0 | 24 |
| Maryland | 218 | 19 | 51 | 0 | 4 | 292 |
| Massachusetts | 733 | 61 | 193 | 0 | 4 | 992 |
| Michigan | 444 | 39 | 25 | 1 | 2 | 511 |
| Minnesota | 260 | 44 | 10 | 1 | 5 | 320 |
| Mississippi | 89 | 9 | 0 | 0 | 0 | 98 |
| Missouri | 251 | 31 | 8 | 2 | 0 | 291 |
| Montana | 29 | 2 | 0 | 0 | 0 | 31 |
| Nebraska | 115 | 5 | 0 | 1 | 0 | 121 |
| Nevada | 46 | 9 | 22 | 0 | 0 | 77 |
| New Hampshire | 14 | 2 | 1 | 0 | 0 | 17 |
| New Jersey | 563 | 23 | 6 | 0 | 7 | 598 |
| New Mexico | 68 | 3 | 0 | 0 | 0 | 71 |
| New York | 3,725 | 193 | 1,081 | 4 | 124 | 5,127 |
| North Carolina | 361 | 187 | 27 | 1 | 6 | 583 |
| North Dakota | 33 | 0 | 0 | 0 | 0 | 34 |
| Ohio | 676 | 92 | 27 | 1 | 7 | 804 |
| Oklahoma | 131 | 4 | 2 | 0 | 0 | 138 |
| Oregon | 106 | 12 | 19 | 0 | 0 | 137 |
| Pennsylvania | 890 | 87 | 51 | 1 | 17 | 1,047 |
| Rhode Island | 100 | 12 | 8 | 0 | 1 | 121 |
| South Carolina | 136 | 43 | 2 | 0 | 1 | 182 |
| South Dakota | 106 | 13 | 19 | 0 | 1 | 139 |
| Tennessee | 209 | 22 | 3 | 0 | 2 | 237 |
| Texas | 904 | 71 | 23 | 2 | 8 | 1,007 |
| Utah | 63 | 9 | 2 | 0 | 0 | 75 |
| Vermont | 25 | 0 | 0 | 0 | 0 | 26 |
| Virginia | 236 | 23 | 3 | 0 | 0 | 263 |
| Washington | 221 | 13 | 8 | 1 | 4 | 248 |
| West Virginia | 99 | 7 | 0 | 0 | 0 | 106 |
| Wisconsin | 168 | 18 | 1 | 0 | 1 | 188 |
| Wyoming | 18 | 0 | 0 | 0 | 0 | 19 |
| Puerto Rico | 10 | 0 | 0 | 0 | 0 | 11 |

*Zeros indicate amounts of less than $500,000

## *Noninterest and Other Expense of National Banks, March 31, 1992*
## *(Dollar amounts in millions)*

| | Provision for loan and lease losses | Provision for allocated transfer risk | Salaries and employee benefits | Expenses of premises and fixed assets | Applicable income taxes | Other noninterest expense | Total noninterest and other expense |
|---|---|---|---|---|---|---|---|
| All national banks | $4,748 | -$54 | $7,952 | $2,687 | $1,749 | $8,520 | $25,601 |
| Alabama | 16 | 0 | 74 | 22 | 22 | 62 | 195 |
| Alaska | 0 | 0 | 18 | 6 | 9 | 9 | 41 |
| Arizona | 68 | 0 | 103 | 28 | 17 | 118 | 334 |
| Arkansas | 6 | 0 | 47 | 13 | 15 | 46 | 127 |
| California | 1,058 | -54 | 1,017 | 398 | 246 | 946 | 3,611 |
| Colorado | 21 | 0 | 103 | 34 | 18 | 135 | 310 |
| Connecticut | 52 | 0 | 95 | 33 | 9 | 127 | 317 |
| Delaware | 120 | 0 | 86 | 23 | 69 | 236 | 534 |
| District of Columbia | 40 | 0 | 51 | 22 | -5 | 83 | 191 |
| Florida | 149 | 0 | 347 | 152 | 88 | 457 | 1,191 |
| Georgia | 88 | 0 | 166 | 51 | 49 | 174 | 529 |
| Hawaii | 0 | 0 | 2 | 1 | 0 | 1 | 4 |
| Idaho | 7 | 0 | 24 | 6 | 12 | 36 | 85 |
| Illinois | 143 | 0 | 406 | 120 | 59 | 356 | 1,084 |
| Indiana | 52 | 0 | 120 | 37 | 45 | 112 | 367 |
| Iowa | 14 | 0 | 53 | 17 | 20 | 58 | 162 |
| Kansas | 12 | 0 | 52 | 14 | 17 | 55 | 149 |
| Kentucky | 19 | 0 | 62 | 19 | 14 | 54 | 169 |
| Louisiana | 47 | 0 | 89 | 27 | 18 | 97 | 278 |
| Maine | 6 | 0 | 9 | 3 | 0 | 10 | 28 |
| Maryland | 94 | 0 | 123 | 38 | 16 | 97 | 368 |
| Massachusetts | 79 | 0 | 208 | 73 | 50 | 223 | 634 |
| Michigan | 55 | 0 | 229 | 64 | 50 | 180 | 577 |
| Minnesota | 53 | 0 | 140 | 46 | 42 | 180 | 461 |
| Mississippi | 12 | 0 | 39 | 11 | 10 | 31 | 104 |
| Missouri | 29 | 0 | 119 | 35 | 39 | 114 | 337 |
| Montana | 6 | 0 | 13 | 4 | 5 | 18 | 46 |
| Nebraska | 22 | 0 | 51 | 17 | 20 | 79 | 189 |
| Nevada | 79 | 0 | 29 | 12 | 54 | 142 | 316 |
| New Hampshire | 13 | 0 | 6 | 2 | 0 | 13 | 34 |
| New Jersey | 131 | 0 | 243 | 91 | 37 | 263 | 765 |
| New Mexico | 8 | 0 | 32 | 10 | 7 | 27 | 84 |
| New York | 1,227 | 0 | 1,507 | 539 | 53 | 1,192 | 4,519 |
| North Carolina | 32 | 0 | 179 | 52 | 76 | 216 | 555 |
| North Dakota | 2 | 0 | 12 | 4 | 3 | 12 | 33 |
| Ohio | 224 | 0 | 310 | 87 | 133 | 481 | 1,236 |
| Oklahoma | 9 | 0 | 71 | 18 | 15 | 63 | 177 |
| Oregon | 32 | 0 | 96 | 21 | 35 | 64 | 249 |
| Pennsylvania | 156 | 0 | 408 | 149 | 134 | 413 | 1,259 |
| Rhode Island | 26 | 0 | 38 | 8 | 15 | 93 | 181 |
| South Carolina | 40 | 0 | 74 | 25 | 22 | 69 | 230 |
| South Dakota | 92 | 0 | 47 | 13 | 54 | 292 | 497 |
| Tennessee | 41 | 0 | 118 | 31 | 27 | 105 | 321 |
| Texas | 117 | 0 | 496 | 175 | 41 | 482 | 1,311 |
| Utah | 16 | 0 | 31 | 8 | 10 | 47 | 112 |
| Vermont | 3 | 0 | 11 | 4 | 1 | 10 | 29 |
| Virginia | 125 | 0 | 100 | 33 | 7 | 145 | 395 |
| Washington | 74 | 0 | 160 | 50 | 37 | 159 | 479 |
| West Virginia | 8 | 0 | 39 | 10 | 14 | 35 | 106 |
| Wisconsin | 20 | 0 | 88 | 27 | 28 | 91 | 255 |
| Wyoming | 1 | 0 | 8 | 2 | 2 | 9 | 22 |
| Puerto Rico | 3 | 0 | 4 | 1 | 1 | 4 | 13 |

*Zeros indicate amounts of less than $500 000

## *Book value of securities at domestic offices of national banks, March 31, 1992**
(Dollar amounts in millions)

| | *U.S. treasury securities* | *U.S. government issued or guaranteed certificates of participation* | *Other U.S. government agency and corporation obligations* | *Securities issued by states and political subdivisions in the U.S.* | *Other domestic debt securities* | *Foreign debt securities* | *Equity securities* |
|---|---|---|---|---|---|---|---|
| All national banks | $106,548 | $97,091 | $85,688 | $34,337 | $27,522 | $939 | $5,809 |
| Alabama | 589 | 1,460 | 1,675 | 932 | 332 | 14 | 45 |
| Alaska | 764 | 55 | 377 | 154 | 297 | 0 | 6 |
| Arizona | 1,872 | 138 | 2,247 | 87 | 549 | 1 | 32 |
| Arkansas | 1,819 | 525 | 1,670 | 535 | 215 | 1 | 49 |
| California | 3,737 | 8,423 | 1,852 | 921 | 657 | 5 | 387 |
| Colorado | 1,634 | 2,105 | 1,669 | 420 | 191 | 0 | 65 |
| Connecticut | 2,502 | 3,292 | 30 | 27 | 490 | 7 | 42 |
| Delaware | 926 | 77 | 192 | 7 | 270 | 0 | 35 |
| District of Columbia | 1,082 | 601 | 794 | 143 | 144 | 4 | 27 |
| Florida | 7,299 | 3,008 | 5,211 | 2,063 | 2,194 | 77 | 312 |
| Georgia | 1,875 | 2,082 | 1,505 | 805 | 528 | 7 | 302 |
| Hawaii | 5 | 5 | 37 | 2 | 0 | 0 | 2 |
| Idaho | 254 | 159 | 574 | 239 | 188 | 0 | 20 |
| Illinois | 5,828 | 3,166 | 4,952 | 3,326 | 2,532 | 26 | 312 |
| Indiana | 1,398 | 1,504 | 1,742 | 1,047 | 704 | 4 | 60 |
| Iowa | 1,091 | 2,315 | 1,552 | 631 | 184 | 0 | 78 |
| Kansas | 1,214 | 1,506 | 2,117 | 679 | 89 | 0 | 75 |
| Kentucky | 1,191 | 459 | 1,220 | 841 | 278 | 0 | 38 |
| Louisiana | 3,371 | 2,707 | 1,661 | 258 | 467 | 3 | 32 |
| Maine | 231 | 59 | 64 | 21 | 27 | 0 | 5 |
| Maryland | 1,121 | 1,177 | 1,910 | 595 | 383 | 17 | 40 |
| Massachusetts | 1,822 | 3,138 | 947 | 38 | 498 | 92 | 113 |
| Michigan | 1,791 | 5,757 | 1,187 | 1,921 | 975 | 6 | 372 |
| Minnesota | 1,731 | 4,800 | 829 | 753 | 829 | 5 | 126 |
| Mississippi | 1,002 | 616 | 1,414 | 516 | 299 | 1 | 24 |
| Missouri | 4,524 | 1,472 | 1,460 | 867 | 324 | 14 | 39 |
| Montana | 230 | 373 | 128 | 46 | 22 | 2 | 18 |
| Nebraska | 1,352 | 614 | 762 | 437 | 136 | 2 | 23 |
| Nevada | 316 | 327 | 204 | 50 | 263 | 0 | 9 |
| New Hampshire | 182 | 66 | 136 | 20 | 29 | 1 | 6 |
| New Jersey | 4,955 | 2,394 | 4,787 | 1,131 | 976 | 58 | 219 |
| New Mexico | 1,039 | 345 | 505 | 226 | 26 | 0 | 47 |
| New York | 7,837 | 9,207 | 2,478 | 2 474 | 1,744 | 295 | 776 |
| North Carolina | 6,766 | 1,718 | 464 | 1,367 | 201 | 1 | 50 |
| North Dakota | 222 | 540 | 187 | 78 | 11 | 0 | 6 |
| Ohio | 3,202 | 2,915 | 5,373 | 2,818 | 2,037 | 7 | 145 |
| Oklahoma | 2,619 | 1,246 | 1,414 | 464 | 260 | 1 | 97 |
| Oregon | 843 | 723 | 468 | 297 | 121 | 2 | 15 |
| Pennsylvania | 5,257 | 11,182 | 9,622 | 1,903 | 2,416 | 197 | 303 |
| Rhode Island | 288 | 1,153 | 54 | 19 | 66 | 2 | 48 |
| South Carolina | 2,142 | 685 | 1,078 | 317 | 246 | 13 | 74 |
| South Dakota | 110 | 534 | 68 | 97 | 35 | 0 | 41 |
| Tennessee | 1,920 | 972 | 4,001 | 802 | 573 | 2 | 57 |
| Texas | 11,637 | 7,711 | 10,103 | 1,026 | 3,651 | 63 | 536 |
| Utah | 301 | 221 | 948 | 176 | 177 | 0 | 64 |
| Vermont | 127 | 96 | 103 | 38 | 23 | 0 | 17 |
| Virginia | 1,537 | 1,071 | 930 | 460 | 255 | 1 | 56 |
| Washington | 623 | 434 | 324 | 363 | 122 | 0 | 66 |
| West Virginia | 951 | 409 | 1,691 | 590 | 77 | 0 | 70 |
| Wisconsin | 967 | 1,115 | 711 | 1,214 | 294 | 8 | 414 |
| Wyoming | 410 | 270 | 255 | 58 | 54 | 0 | 12 |
| Puerto Rico | 40 | 165 | 5 | 37 | 63 | 0 | 5 |

Zeros indicate amounts of less than $500,000

*Excludes assets held in trading accounts

## *Selected off-balance sheet items at national banks, March 31, 1992*
(Dollar amounts in millions)

| | *Unused commitments* | *Letters of credit* | *Securities lent* | *Mortgages transferred to FNMA and FHLMC with recourse* | *Notional value of swap contracts* | *When issued securities and futures and forward contracts* | *Written and purchased option contracts* |
|---|---|---|---|---|---|---|---|
| All national banks | $750 922 | $134,524 | $12,581 | $9,156 | $1,066,799 | $2,546,103 | $719,648 |
| Alabama | 3 570 | 754 | 223 | 12 | 570 | 1,038 | 965 |
| Alaska | 524 | 23 | 24 | 0 | 0 | 0 | 0 |
| Arizona | 17 006 | 243 | 0 | 31 | 829 | 1,930 | 56 |
| Arkansas | 1,047 | 76 | 0 | 407 | 0 | 98 | 42 |
| California | 105 687 | 20 266 | 2,029 | 195 | 248,838 | 571,300 | 78,304 |
| Colorado | 5 659 | 293 | 1 | 0 | 44 | 157 | 27 |
| Connecticut | 4 544 | 902 | 0 | 2 | 1,933 | 2,161 | 40 |
| Delaware | 88 489 | 6 | 0 | 0 | 5,848 | 0 | 0 |
| District of Columbia | 2,230 | 415 | 0 | 0 | 1,993 | 1,878 | 415 |
| Florida | 16,648 | 2,548 | 230 | 442 | 1,871 | 1,723 | 1,269 |
| Georgia | 15,964 | 2,180 | 3 | 72 | 6,965 | 1,568 | 370 |
| Hawaii | 61 | 2 | 0 | 0 | 0 | 0 | 0 |
| Idaho | 2,093 | 152 | 0 | 0 | 307 | 1,957 | 873 |
| Illinois | 54,675 | 10,670 | 103 | 15 | 134,498 | 261,701 | 197,427 |
| Indiana | 9,291 | 982 | 1,146 | 16 | 3,098 | 342 | 25 |
| Iowa | 6,986 | 228 | 40 | 0 | 1,133 | 12 | 1 |
| Kansas | 2,288 | 122 | 0 | 24 | 1 | 6 | 0 |
| Kentucky | 2,542 | 461 | 39 | 8 | 543 | 43 | 0 |
| Louisiana | 3,109 | 356 | 0 | 89 | 112 | 209 | 236 |
| Maine | 313 | 22 | 0 | 0 | 184 | 0 | 47 |
| Maryland | 10 984 | 952 | 96 | 88 | 6,134 | 949 | 2,749 |
| Massachusetts | 17 648 | 3,135 | 11 | 113 | 11,471 | 32,314 | 20,521 |
| Michigan | 14 267 | 2 391 | 0 | 290 | 4,078 | 4,930 | 914 |
| Minnesota | 9 737 | 3,034 | 79 | 70 | 3,954 | 7,555 | 4,946 |
| Mississippi | 1,335 | 100 | 0 | 0 | 5 | 645 | 135 |
| Missouri | 6 917 | 1,284 | 135 | 0 | 1,819 | 1,265 | 70 |
| Montana | 1 123 | 58 | 0 | 0 | 185 | 0 | 0 |
| Nebraska | 6 065 | 156 | 31 | 0 | 827 | 19 | 0 |
| Nevada | 829 | 64 | 0 | 1 | 772 | 3,135 | 400 |
| New Hampshire | 581 | 18 | 0 | 0 | 0 | 0 | 70 |
| New Jersey | 11 232 | 1,229 | 0 | 0 | 4,618 | 2,495 | 21 |
| New Mexico | 1 047 | 43 | 0 | 34 | 225 | 14 | 0 |
| New York | 92 313 | 54,182 | 1,142 | 5,626 | 528,378 | 1,560,387 | 379,486 |
| North Carolina | 20 034 | 4,213 | 0 | 72 | 6,378 | 29,141 | 14,180 |
| North Dakota | 371 | 16 | 40 | 0 | 113 | 0 | 7 |
| Ohio | 44 204 | 3,984 | 0 | 263 | 25,949 | 4,613 | 2,278 |
| Oklahoma | 1 931 | 194 | 0 | 36 | 7 | 146 | 12 |
| Oregon | 8,212 | 519 | 0 | 10 | 2,153 | 780 | 1,138 |
| Pennsylvania | 29,745 | 9,093 | 866 | 172 | 27,202 | 13 452 | 4,529 |
| Rhode Island | 6 051 | 421 | 0 | 0 | 3,173 | 141 | 352 |
| South Carolina | 4,008 | 262 | 218 | 9 | 272 | 426 | 25 |
| South Dakota | 54 738 | 40 | 0 | 0 | 1,479 | 4,796 | 250 |
| Tennessee | 5,560 | 776 | 566 | 51 | 214 | 2 861 | 210 |
| Texas | 25,245 | 3,821 | 5,334 | 621 | 14 809 | 3,339 | 5,167 |
| Utah | 2 152 | 210 | 0 | 0 | 196 | 2,137 | 1 132 |
| Vermont | 328 | 31 | 0 | 0 | 5 | 25 | 2 |
| Virginia | 9 027 | 1 199 | 91 | 318 | 1 731 | 1,345 | 106 |
| Washington | 14 530 | 1 580 | 59 | 0 | 8 352 | 22 818 | 378 |
| West Virginia | 915 | 104 | 74 | 0 | 50 | 0 | 0 |
| Wisconsin | 6 861 | 697 | 1 | 74 | 3 483 | 251 | 472 |
| Wyoming | 115 | 13 | 1 | 0 | 0 | 0 | 0 |
| Puerto Rico | 91 | 3 | 0 | 0 | 0 | 0 | 0 |

Zero indicates amount less than $500,000.

When-issued, futures and forward and option contracts include interest rate, foreign exchange, and commodities and equities contracts.

## *Outstanding balances, credit cards and related plans of national banks, March 31, 1992*
(Dollar amounts in thousands)

|  | *Total number of national banks* | *Credit cards and other related credit plans* |  |
|---|---|---|---|
|  |  | *Number of national banks* | *Outstanding volume* |
| All national banks | 3,735 | 2,254 | $75 316 217 |
| Alabama | 51 | 27 | 341 836 |
| Alaska | 4 | 3 | 46 284 |
| Arizona | 14 | 12 | 2 063 708 |
| Arkansas | 79 | 26 | 159 063 |
| California | 155 | 143 | 12 454 261 |
| Colorado | 202 | 182 | 1,008,823 |
| Connecticut | 15 | 8 | 116,951 |
| Delaware | 14 | 14 | 12,563 333 |
| District of Columbia | 21 | 19 | 165 658 |
| Florida | 156 | 83 | 2 074 200 |
| Georgia | 73 | 52 | 2 151 645 |
| Hawaii | 3 | 1 | 3,423 |
| Idaho | 9 | 7 | 233,123 |
| Illinois | 326 | 184 | 1 118,241 |
| Indiana | 81 | 74 | 1,037 311 |
| Iowa | 100 | 59 | 479 203 |
| Kansas | 151 | 51 | 320,926 |
| Kentucky | 85 | 38 | 156,946 |
| Louisiana | 43 | 21 | 468,350 |
| Maine | 6 | 6 | 41,175 |
| Maryland | 29 | 22 | 4,104,023 |
| Massachusetts | 26 | 18 | 155,108 |
| Michigan | 61 | 45 | 600,978 |
| Minnesota | 150 | 110 | 696,284 |
| Mississippi | 27 | 13 | 108,259 |
| Missouri | 84 | 56 | 430 634 |
| Montana | 39 | 27 | 307,876 |
| Nebraska | 108 | 48 | 1,518 630 |
| Nevada | 7 | 5 | 5,156,527 |
| New Hampshire | 7 | 5 | 339,395 |
| New Jersey | 49 | 42 | 914,610 |
| New Mexico | 37 | 20 | 186,809 |
| New York | 82 | 59 | 4,872,602 |
| North Carolina | 15 | 15 | 409,722 |
| North Dakota | 30 | 23 | 78 572 |
| Ohio | 126 | 101 | 5 223,493 |
| Oklahoma | 157 | 61 | 70 212 |
| Oregon | 8 | 7 | 1 367 178 |
| Pennsylvania | 148 | 91 | 840,730 |
| Rhode Island | 3 | 2 | 178 563 |
| South Carolina | 29 | 28 | 572 561 |
| South Dakota | 21 | 14 | 3 854 230 |
| Tennessee | 46 | 26 | 667 827 |
| Texas | 574 | 202 | 839 95[illegible] |
| Utah | 7 | 6 | 234 651 |
| Vermont | 12 | 5 | 44 660 |
| Virginia | 43 | 24 | 1 670 912 |
| Washington | 26 | 22 | 1 858 155 |
| West Virginia | 71 | 29 | 110 323 |
| Wisconsin | 95 | 90 | 867 218 |
| Wyoming | 29 | 27 | 12 18[illegible] |
| Puerto Rico | 1 | 1 | 19 382 |

*Consolidated foreign and domestic loans and leases past due at national banks, by states, March 31, 1992*
(Dollar amounts in millions)

| | Number of banks | Type of loan | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | *All real estate* | *Commercial and industrial*[1] | *Personal*[2] | *Leases* | *Other loans*[3] | *Total loans* | *To non-U.S. addresses* |
| All national banks | 3,735 | $15,063.3 | $5,956.2 | $8,038.0 | $333.2 | $884.0 | $30,274.8 | $805.06 |
| Alabama | 51 | 81.8 | 46.6 | 52.5 | 0.3 | 10.9 | 192.2 | 0.00 |
| Alaska | 4 | 30.7 | 19.9 | 3.7 | 1.7 | 7.0 | 63.0 | 0.00 |
| Arizona | 14 | 120.7 | 35.7 | 120.7 | 0.5 | 12.5 | 290.0 | 0.00 |
| Arkansas | 79 | 68.4 | 34.8 | 25.4 | 0.1 | 1.8 | 130.5 | 0.00 |
| California | 155 | 3,218.8 | 790.0 | 903.0 | 22.9 | 118.7 | 5,053.5 | 82.87 |
| Colorado | 202 | 82.7 | 89.1 | 51.8 | 0.7 | 2.2 | 226.7 | 0.00 |
| Connecticut | 15 | 320.3 | 107.3 | 86.4 | 0.0 | 12.3 | 526.3 | 0.00 |
| Delaware | 14 | 12.7 | 5.7 | 485.0 | 1.2 | 0.2 | 504.8 | 0.00 |
| District of Columbia | 21 | 169.1 | 34.2 | 17.8 | 0.6 | 11.3 | 232.9 | 2.10 |
| Florida | 156 | 767.7 | 161.9 | 163.0 | 3.1 | 30.6 | 1,126.4 | 2.72 |
| | | | | | | | | |
| Georgia | 73 | 178.8 | 85.8 | 159.8 | 1.0 | 38.8 | 464.3 | 0.00 |
| Hawaii | 3 | 0.8 | 0.2 | 0.2 | 0.0 | 0.0 | 1.3 | 0.00 |
| Idaho | 9 | 25.8 | 18.8 | 21.2 | 0.0 | 9.4 | 75.2 | 0.00 |
| Illinois | 326 | 656.6 | 382.7 | 158.2 | 0.7 | 31.1 | 1,229.3 | 0.50 |
| Indiana | 81 | 223.5 | 140.3 | 159.9 | 10.5 | 8.5 | 542.6 | 0.00 |
| Iowa | 100 | 46.0 | 48.0 | 42.0 | 0.0 | 8.6 | 144.6 | 0.00 |
| Kansas | 151 | 45.8 | 59.0 | 25.9 | 1.9 | 8.6 | 141.1 | 0.00 |
| Kentucky | 85 | 82.3 | 65.1 | 44.0 | 2.2 | 2.8 | 196.4 | 0.00 |
| Louisiana | 43 | 114.7 | 57.5 | 71.9 | 0.7 | 13.1 | 257.8 | 0.32 |
| Maine | 6 | 39.4 | 8.6 | 6.1 | 0.9 | 0.3 | 55.3 | 0.00 |
| | | | | | | | | |
| Maryland | 29 | 252.5 | 49.5 | 303.7 | 1.5 | 8.7 | 616.0 | 0.64 |
| Massachusetts | 26 | 563.3 | 252.6 | 109.2 | 6.9 | 8.4 | 940.4 | 9.86 |
| Michigan | 61 | 262.5 | 111.9 | 109.9 | 8.2 | 15.8 | 508.3 | 0.00 |
| Minnesota | 150 | 177.1 | 223.8 | 105.4 | 10.1 | 42.1 | 558.5 | 0.00 |
| Mississippi | 27 | 40.2 | 26.8 | 23.0 | 0.0 | 4.8 | 94.9 | 0.00 |
| Missouri | 84 | 148.8 | 91.3 | 52.7 | 0.5 | 12.3 | 305.7 | 0.00 |
| Montana | 39 | 10.5 | 20.3 | 19.2 | 0.0 | 0.7 | 50.7 | 0.00 |
| Nebraska | 108 | 32.7 | 50.5 | 73.5 | 0.3 | 6.1 | 163.1 | 0.00 |
| Nevada | 7 | 51.3 | 7.3 | 291.0 | 0.0 | 0.0 | 349.6 | 0.00 |
| New Hampshire | 7 | 24.5 | 16.4 | 13.4 | 0.0 | 2.0 | 56.4 | 0.00 |
| | | | | | | | | |
| New Jersey | 49 | 1,259.5 | 438.6 | 233.3 | 20.4 | 38.1 | 1,989.9 | 0.00 |
| New Mexico | 37 | 56.0 | 18.9 | 17.3 | 0.5 | 3.0 | 95.6 | 0.00 |
| New York | 82 | 2,571.1 | 634.2 | 1,334.2 | 59.0 | 162.8 | 4,761.3 | 695.10 |
| North Carolina | 15 | 208.0 | 153.8 | 44.6 | 2.8 | 12.2 | 421.4 | 0.00 |
| North Dakota | 30 | 14.1 | 16.3 | 9.3 | 0.0 | 6.8 | 46.5 | 0.00 |
| Ohio | 126 | 513.1 | 257.7 | 545.6 | 15.6 | 17.7 | 1,349.8 | 0.09 |
| Oklahoma | 157 | 48.7 | 37.0 | 17.3 | 0.1 | 8.9 | 112.0 | 0.00 |
| Oregon | 8 | 110.1 | 33.5 | 45.3 | 26.1 | 4.1 | 219.0 | 0.00 |
| Pennsylvania | 148 | 647.8 | 307.4 | 329.0 | 56.8 | 62.1 | 1,403.1 | 4.26 |
| Rhode Island | 3 | 196.0 | 54.6 | 20.8 | 56.6 | 2.3 | 330.3 | 0.00 |
| | | | | | | | | |
| South Carolina | 29 | 125.2 | 35.0 | 61.9 | 1.1 | 2.5 | 225.8 | 0.00 |
| South Dakota | 21 | 12.2 | 51.4 | 887.2 | 2.4 | 13.5 | 966.8 | 0.00 |
| Tennessee | 46 | 154.8 | 47.7 | 93.4 | 3.5 | 5.0 | 304.4 | 0.00 |
| Texas | 574 | 533.5 | 376.9 | 225.5 | 3.0 | 52.9 | 1,191.8 | 6.61 |
| Utah | 7 | 45.8 | 15.9 | 20.1 | 0.8 | 2.6 | 85.2 | 0.00 |
| Vermont | 12 | 46.6 | 28.5 | 8.8 | 0.0 | 0.0 | 84.0 | 0.00 |
| Virginia | 43 | 210.2 | 82.6 | 220.7 | 1.3 | 16.8 | 531.6 | 0.00 |
| Washington | 26 | 241.8 | 174.5 | 110.3 | 1.6 | 30.3 | 558.5 | 0.00 |
| West Virginia | 71 | 72.3 | 32.4 | 44.3 | 0.0 | 0.2 | 149.2 | 0.00 |
| Wisconsin | 95 | 110.7 | 104.6 | 60.6 | 4.8 | 12.4 | 293.0 | 0.00 |
| | | | | | | | | |
| Wyoming | 29 | 3.4 | 9.7 | 4.3 | 0.0 | 0.0 | 17.4 | 0.00 |
| Puerto Rico | 1 | 32.4 | 3.3 | 4.9 | 0.1 | 0.0 | 40.7 | 0.00 |

[1] For banks with assets of less than $300 million, this category captures commercial (time and demand) and all other loans.

[2] For banks with assets of less than $300 million, this category captures installment loans and credit cards and related plans.

[3] Reported only by banks with assets of less than $300 million.

* Denotes amount of less than $500,000.

*Percent of loans past due, by asset size of national banks*[1]

| | *Less than $300M* | *$300M to $1B* | *$1B to $10B* | *Greater than $10B* | *All national banks* |
|---|---|---|---|---|---|
| Real estate | | | | | |
| June 1991 | 2.30 | 2.35 | 2.85 | 2.94 | 2.7[illegible] |
| September 1991 | 2.27 | 2.34 | 2.97 | 3.03 | 2.83 |
| December 1991 | 2.40 | 2.23 | 2.95 | 3.46 | 3.04 |
| March 1992 | 2.39 | 2.29 | 3.09 | 3.28 | 3.00 |
| Commercial and industrial[2] | | | | | |
| June 1991 | 4.56 | 2.66 | 2.16 | 1.08 | 1.72 |
| September 1991 | 4.54 | 2.84 | 2.18 | 1.16 | 1.77 |
| December 1991 | 4.22 | 2.55 | 2.00 | 1.13 | 1.66 |
| March 1992 | 4.85 | 2.82 | 2.10 | 1.11 | 1.73 |
| Personal[3] | | | | | |
| June 1991 | 2.78 | 2.69 | 4.29 | 3.35 | 3.61 |
| September 1991 | 2.79 | 2.88 | 4.11 | 3.51 | 3.61 |
| December 1991 | 3.16 | 3.02 | 4.21 | 3.61 | 3.76 |
| March 1992 | 2.56 | 2.61 | 4.04 | 3.53 | 3.54 |
| Leases | | | | | |
| June 1991 | 2.57 | 1.35 | 1.95 | 1.28 | 1.51 |
| September 1991 | 1.84 | 1.28 | 2.25 | 1.26 | 1.58 |
| December 1991 | 2.34 | 1.74 | 1.92 | 1.05 | 1.36 |
| March 1992 | 2.54 | 1.57 | 2.22 | 0.87 | 1.33 |
| Other Loans | | | | | |
| June 1991 | 0.03 | 0.67 | 1.24 | 0.85 | 0.87 |
| September 1991 | 0.04 | 0.60 | 1.25 | 1.08 | 1.01 |
| December 1991 | 0.02 | 0.60 | 1.32 | 0.77 | 0.83 |
| March 1992 | 0.01 | 0.83 | 1.24 | 0.67 | 0.77 |
| Total loans | | | | | |
| June 1991 | 2.68 | 2.39 | 2.90 | 2.05 | 2.41 |
| September 1991 | 2.63 | 2.45 | 2.92 | 2.17 | 2.47 |
| December 1991 | 2.71 | 2.38 | 2.90 | 2.31 | 2.54 |
| March 1992 | 2.72 | 2.38 | 2.93 | 2.21 | 2.49 |

[1] Past due loans in each category are stated as a percentage of loans outstanding of that type.

[2] For banks with assets of less than $300 million, this category captures commercial (time and demand) and all other loans.

[3] For banks with assets of less than $300 million, this category captures installment loans and credit cards and related plans

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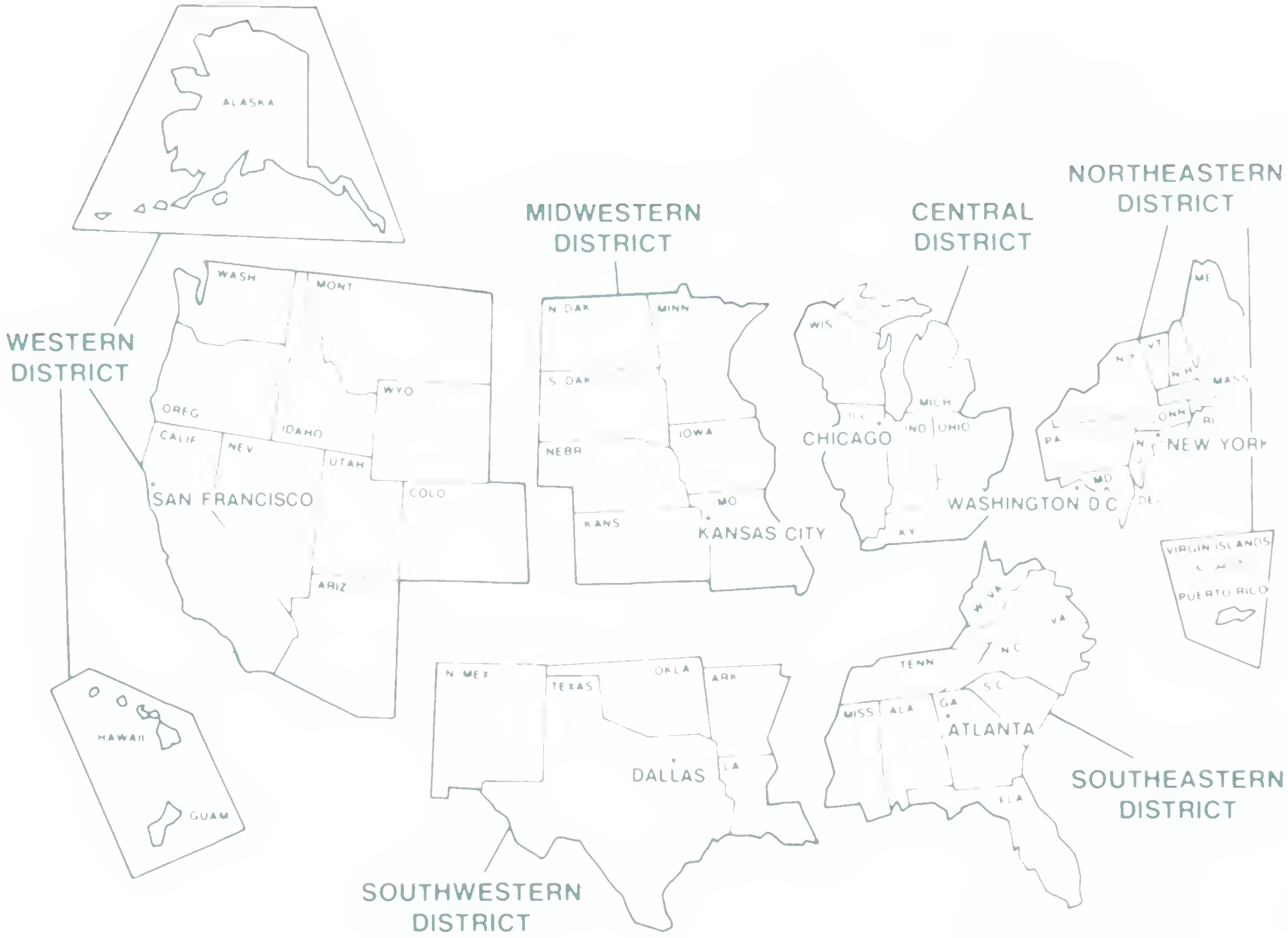

## Northeastern District

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## Central District

Chicago District Office
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Suite 2700
440 South LaSalle Street
Chicago, IL 60605

(312) 663-8000

## Southwestern District

Dallas District Office
1600 Lincoln Plaza
500 North Akard
Dallas, TX 75201 3394

(214) 720 0656

## Southeastern District

Atlanta District Office
Marquis One Tower
Suite 600
245 Peachtree Center Ave. N E
Atlanta, GA 30303

(404) 659 8855

## Midwestern District

Kansas City District Office
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